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**POLICE INTERVIEWING: AN EXAMINATION OF SOME
OF THE PSYCHOLOGICAL, INTERROGATIVE AND
BACKGROUND FACTORS THAT ARE ASSOCIATED WITH
A SUSPECT'S CONFESSION**

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**SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENTS FOR THE DEGREE OF DOCTOR OF
PHILOSOPHY.**

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ABSTRACT

In the broader context, this thesis is concerned with the relationship between police interviewing tactics and the confession process. The main hypothesis is that suspects who move from an initial denial to a confession, do so because of the amount of pressure and psychological manipulation applied by the Police. A second hypothesis is that psychologically vulnerable suspects are more likely to confess than their more robust counterparts. To interpret this complex social and legal process the author has developed a unique, systematic framework to identify, analyse, measure and display the extent of pressure and psychological manipulation applied in a police-suspect interview. A third hypothesis postulates that interviewing tactics that reach an *Extreme* level on the Police Interviewing Analysis Framework (P.I.A.F.) are more likely to be ruled inadmissible by the courts, than those tactics that do not reach this level.

This thesis is in three parts: a review of the field, an analysis of police interviews at two London Police Stations and a detailed examination of 20 very serious criminal cases.

In straightforward, general criminal cases (Part Two), there was no evidence to support the first or second hypothesis. In very serious criminal cases (Part Three), evidence emerged to support the first and third hypothesis. The majority of interviews analysed in Part Two were short, non-confrontational exchanges, often conducted with polite and compliant suspects. Few coercive techniques were evident. A legal adviser was present in 56 per cent of the cases (N=161), and at one station this figure reached 62 per cent. These are the highest recorded figures to date and continue an upward trend evident since the introduction of PACE. A significant relationship was found between

the presence of a legal adviser and (i) a suspect's decision to exercise his or her right to silence, and (ii) a suspect's decision not to confess.

Intriguingly, despite a decrease in coercive police tactics and an increase in legal advice (since PACE), the majority of suspects continue to make a confession. In this thesis the figure was 58%. According to a logistic regression model, suspects were more likely to confess if they had consumed an illicit (non-prescribed) drug, within the previous 24-hour period, but were less likely to confess if they had a legal adviser present or had experience of prison or custodial remand. In straightforward criminal cases, suspects appeared to have made up their minds before the interview, whether to confess or deny, and were able to maintain this position regardless of the tactics used - not because of them.

In Part Three, evidence emerged of a considerable increase in the use of coercive and manipulative tactics by the police. A significant relationship was found between the use of *Extreme* levels of 'overbearing' tactics and the likelihood that the courts would rule such tactics to be inadmissible. The proposed framework (P.I.A.F.) appears to accurately reflect, not only the nature and level of the tactics employed but also the eventual legal determinations. This framework may prove to be a valuable vehicle for future research into understanding and measuring influential police tactics.

ACKNOWLEDGEMENTS

This thesis would not have been possible without the intervention and support of the Commissioner of the Metropolitan Police, Sir Paul Condon. The desire to improve our understanding of the dynamics of the police-suspect interview reflects his continued determination to advance the ethical standards of criminal investigations.

I am grateful to the National Police Staff College (Bramshill) for the award of their Fellowship.

To Tom and Geoffrey for their continued encouragement and wise counsel. I trust the finished product is suitably uncluttered!

To Sue, Sarah, Paul, Jon and particularly Isabel. Feedback from friends has such a rich and abiding quality.

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**POLICE INTERVIEWING: AN EXAMINATION OF
SOME OF THE PSYCHOLOGICAL, INTERROGATIVE
AND BACKGROUND FACTORS THAT ARE
ASSOCIATED WITH A SUSPECT'S CONFESSION**

PART ONE - A DEDICATION

**IT IS WHOLLY APPROPRIATE THAT I DEDICATE
THIS FIRST SECTION TO DICKIE GILBERT, THE
PERSON RESPONSIBLE FOR MY INTRODUCTION TO
PSYCHOLOGY. AN AUDACIOUS INDIVIDUAL, WHO
IS PERHAPS BETTER KNOWN AS THE JONATHAN
WILD OF NEW SCOTLAND YARD.**

PART ONE: THE CONFESSION PROCESS

INTRODUCTION

There is unequivocal evidence that what took place in the past, within the confines of the police-suspect interview, was an abuse of the investigative process (Dixon, 1991; Gudjonsson, 1992a). Indeed, according to Zuckerman (1994):

“...experience shows that miscarriage of justice almost invariably has its root in faulty police work. Most commonly, it is an unreliable confession.....which is found at the root of convictions of innocent persons.” (ibid, p 120).

Given the number of high profile cases which have emerged from the Court of Appeal over the past decade, where disputed confessions have subsequently been found to be unsafe and unsatisfactory, there is considerable evidence to support Zuckerman's assertion (Gudjonsson, 1992a, 1993, 1994a; Williamson, 1994). The purpose of this thesis is to examine what it is that is said or done, within the confines of a police-suspect interview, that succeeds in breaking down a suspect. What is it that persuades the initially resolute suspect to admit an offence that he or she has previously steadfastly denied? The main hypothesis to be examined will be that suspects break down because of police pressure and psychological manipulation.

One disturbing feature of the 'unreliable confession...found at the root of convictions of innocent persons' was how psychologically disadvantaged many suspects actually were (Brandon and Davies, 1973; Gudjonsson, 1992a). It has long been assumed that psychologically vulnerable suspects (such as those in an abnormal mental state, with limited intellectual ability, heightened interrogative

suggestibility, or juveniles) are more likely to confess than their more robust, less vulnerable, counterparts (Clare and Gudjonsson, 1995); but this assumption has been subject to little empirical research. This represents a further hypothesis to be examined in this study. All police-suspect interviews are now conducted on audio-tape. This innovation has provided the opportunity to conduct detailed empirical research into an area that was previously conducted “..behind closed doors.” (Philips, 1981, p 70). The author had access to this audio record as well as a psychological assessment of each suspect who was interviewed by the police. This was one of a number of unique aspects to this thesis.

A general introduction to this field is provided in the first four chapters. The current legal framework is outlined in Chapter One. The introduction of the Police and Criminal Evidence Act, 1984, (known as - PACE, Home Office, 1985a) and its accompanying Codes of Practice (Home Office, 1985b, 1991, 1995) represented a landmark piece of legislation and it provided, for the first time, specific guidelines for the detention, treatment and questioning of suspects by the police. The Codes of Practice (known hereafter as ‘the Codes’) have been subject to two revisions. All references in this thesis will be in respect of the final (1995) version, unless stated otherwise. In Chapter Two, police interviewing methods and training programmes are examined. The current police interviewing model is also discussed. Chapter Three provides an outline of the psychological characteristics and vulnerabilities which are thought to be relevant to the interview process and critically reviews current legal safeguards for psychologically vulnerable suspects. The final chapter in Part One of the thesis outlines a number of models of confession in the literature which seek to explain the mechanisms and processes involved in influencing the decision making of the suspect.

The second part of the thesis will report on the findings of a field study which examined the potential psychological vulnerabilities of detainees at two police stations in South London. The first of the five chapters in this section is concerned with the identification of individual characteristics considered relevant to suspects providing misleading information during the police interview. In this respect, it will establish a 'base-line' for the remainder of the thesis. Suspects had been assessed in relation to their mental state, intellectual capacity, knowledge of legal rights, reading ability, anxiety state and interrogative suggestibility. The following three chapters address the role and performance of the other key parties in the interview; the legal adviser, the interviewing police officers and the nature of the tactics they adopt, and the 'appropriate adult' (an independent third party). The final chapter in this section will address two issues. First, it will examine whether psychologically vulnerable suspects are more likely to confess than their non-vulnerable counterparts; and secondly, it will seek to identify a number of explanatory variables that may be concerned with predicting the likelihood of a confession.

Part Three of this thesis is dedicated to an examination of the dynamics of the interview process in 20 very serious criminal cases. A more detailed and reductionist approach is brought to the analysis of these cases. Every five minute segment of each interview is analysed to extract the minutiae of the interaction. Finally, a unique framework is provided that has been developed to identify, analyse, measure and display some of the psychological, interrogative and background factors associated with a suspect's confession - in relation to this sample of serious criminal cases.

CHAPTER ONE

THE CURRENT LEGAL FRAMEWORK IN ENGLAND AND WALES

1. 1. BACKGROUND TO THE POLICE AND CRIMINAL EVIDENCE ACT, 1984.

PACE heralded a new era in respect of the powers of police officers in England and Wales to stop, search and detain suspects. Crucially, it legislated for the treatment and questioning of all detainees. This one piece of legislation finally united countless disparate 'Acts and Sections' and imposed order and regulation, where previously little existed. It is important to appreciate that PACE not only provides definitions and guidelines that are an essential feature of this thesis, but it also represents a fundamental part of the context in which individual cases have to be considered. In such circumstances a brief historical perspective will be provided together with a breakdown of the component parts of the Act that are relevant to this thesis.

In November 1972, three youths were convicted of a number of offences in relation to the death of Maxwell Confait, whose charred remains had been discovered by the fire brigade, on the first floor of his house in Catford, South East London, in April of the same year. All three youths (aged 14, 15 and 18 at the time of their arrest) had signed confession statements having been detained and interviewed by the police. These convictions were subsequently quashed by the Court of Appeal, who declared them to be "unsafe and unsatisfactory" (Section 2, Criminal Appeal Act, 1968) after it was discovered that the youths had been questioned in breach of the Judges' Rules (the guidelines then in place) and in a manner inappropriate to their age. These youths were all psychologically vulnerable. One was mentally

handicapped and illiterate, another of borderline intelligence and near-illiterate, and the youngest, although apparently of normal intelligence, spoke English as his second language. Despite this, no legal advisers or independent parties were present for crucial periods of interrogation (Gudjonsson, 1992a). Such was the public disquiet raised over this case that a Public Inquiry was ordered under the chairmanship of a retired judge, Sir Henry Fisher, (Fisher, 1977). One of the major findings of this inquiry was that many of the parties involved in the legal process did not understand the safeguards in place for vulnerable suspects.

Shortly after the publication of the Fisher Report, the Right Honourable Merlyn Rees, Home Secretary, set up the Royal Commission on Criminal Procedure (the Philips' Commission) in February 1978. In part, it was tasked to examine:

“..... the powers and duties of the police in respect of the investigation of criminal offences and the rights and duties of suspect and accused persons, including the means by which these are secured;” (ibid, p vi).

The debate over this 'fundamental balance', between the powers of the police on the one hand and the rights of the suspect on the other, continued long after the recommendations of the Philips' Commission matured as PACE (for many, the extensive controversy over the 'right to silence' continues to symbolise this division - Dixon, 1991). The Commissioners recognised the need to ensure continuing public confidence in the police and to this end they advocated three principle standards that should apply to future interactions: "Are they fair? Are they open? Are they workable?" (Philips, 1981, p.20). These then were the guiding principles that helped to promote and sustain the Act.

When PACE was finally introduced, in January 1986, it had already endured a prolonged and somewhat difficult gestation period. The report of the Philips' Commission was converted into a Bill and placed before Parliament in November 1982. This Bill proved highly controversial and failed to proceed despite countless amendments (but mainly because the Prime Minister called a General Election in May, 1983). The second Bill was introduced in October of that year and again generated so much controversy and debate that at the Committee stage in the House of Commons, the record for the highest number of sittings was broken (for both Bills there were a total of 120 sittings, including 105 in committee). The final product, with 122 sections, 685 sub-sections, 26 pages of schedules and the accompanying Codes containing over 300 paragraphs, could hardly be said to be simple or straightforward (Zander, 1985).

The impact of PACE however, was immediate and profound. The introduction of an accountable framework to regulate police powers in relation to stopping, searching and arresting suspects was balanced with a number of new safeguards for the detainee. A few examples should provide some indication of the efforts of the legislators to create a law that was 'fair, open and workable'. A new police post, the *Custody Officer*, was created with special responsibility for the treatment and welfare of the suspect. PACE recommended that this should be undertaken by a supervisory officer unconnected with the investigation. A unique document, the *Custody Record*, was to be opened for every person brought to the station under arrest. This would document the movement, treatment and requests of each detainee. The detention of a person without charge was now regulated and subject to *Mandatory Reviews* which were to be entered on the Custody

Record. This document would also contain a written endorsement that each suspect had been provided with a form explaining his *Rights* whilst in police detention and these rights were also to be read over to the suspect in every case (*Notice to Detained Persons*), who would then be invited to sign to this effect. (Given that the vast majority of suspects arrested and charged by the police are male I will employ the masculine pronoun throughout this thesis, except where this is inappropriate). These rights include the *Right to Free Legal Advice* which was unequivocally established by virtue of section 58 of PACE, and section 59 provided for the establishment of the *Duty Solicitor Scheme*, to ensure that such requests for advice could be met in an efficient manner. The concept of an independent third party, an '*Appropriate Adult*' (AA), who was to be present to offer special assistance to vulnerable suspects was also formalised in the Codes. Finally, all interviews with suspects were to be conducted on audio-tape.

In many respects, PACE represents a watershed in relation to the manner in which the police could now conduct their investigations. Its structure and rigidity encouraged the police to seek evidence in the first instance (and it provided the legitimate means to acquire this evidence) before depriving a person of his liberty. The Act is now an established and integral part of the wider criminal justice system and has recently been acclaimed as "...a model of operational accountability in much of the rest of the world." (Newburn and Morgan, 1994, p 148). For the purposes of this thesis, the timing of the Act also provides a natural demarcation, allowing legal issues and research findings to be considered before and after PACE. All the cases examined for this study were subject to the requirements of PACE. However, the significance of the genesis of this landmark piece of legislation should not be lost.

1. 2. PRE-PACE: THE JUDGES' RULES

Prior to PACE, the guidelines in respect of police interviewing and the admissibility of evidence were governed by the Judges' Rules and Home Office Administrative Directions (Home Office, 1978). These Rules (which have their origin in the common law doctrine that no person should be compelled to incriminate himself) evolved in the wake of the interrogation and torture regime of the Star Chamber. A judgement in *R. v Warwickshall [1783] 1 Leach 263* provides some indication of the early legal awareness of an unreliable confession:

“ A free and voluntary confession is deserving of the highest credit, because it is presumed to flow from the strongest sense of guilt, and therefore it is admitted as proof of the crime to which it refers; but a confession forced from the mind by the flattery of hope, or by the torture of fear, comes in so questionable a shape when it is to be considered as the evidence of guilt, that no credit ought to be given to it; and therefore it is rejected. ”
(quoted in Softley, 1980, p 2).

The Rules were first issued in 1912, to resolve the concern of Chief Constables regarding the conduct of investigations, and were subject to a number revisions in 1918, 1964 and again in 1978. To place the reader in some context, the legal 13 age of a child in 1964, was someone under 14 years (Home Office, 1964). This was not ammended, to someone under 17 years of age, until May 1968 (Home Office, 1968). Furthermore, it was not until 1976 that any guidelines were provided to cater for the interrogation of mentally handicapped (although not mentally ill) suspects (Home Office, 1976).

The Judges' Rules were preceded by a number of principles, the most important of which stated that:

" It is a fundamental condition of the admissibility in evidence against any person, equally of any oral answer given by that person to a question put by a police officer and of any statement made by that person, that it shall have been voluntary, in the sense that that it has not been obtained from him by fear of prejudice or hope of advantage, exercised or held out by a person in authority, or by oppression." (Home Office, 1978, principle (e)).

Failure to comply with these 'Rules and Directions' could lead to confession evidence being excluded by the judge on the grounds that it was not voluntary or had been obtained by oppressive questioning. The Court of Appeal in *R. v. Prager* [1972] 56 Cr. App. R. 151, noted that:

"..... ultimately all turns on the judge's decision whether, breach or no breach, it has been shown to have been made voluntarily."

These safeguards were the subject of criticism (Softley, 1980) and fell into disrepute as they were rarely implemented and were often ignored (Irving, 1990).

So why did these safeguards fail? One of main difficulties related to the concept of 'voluntariness' and the interpretation of exactly what constituted 'oppression'. A situation eloquently summarised by Irving (1980) who noted that:

"detectives are just as human as any other workers and they should not be expected to operate work systems or labour under rules which require them to be extraordinary. To do so is to invite the system to fail..... If any person is subject to a rule, he should know when he is

breaking it. This cannot be said of the rules governing the conduct of interviews with respect of voluntariness and oppression." (ibid, p 152).

1. 3. CONFESSION EVIDENCE - OPPRESSION - RELIABILITY - FAIRNESS

PACE dispensed with the notion of 'voluntariness' and replaced it with the concepts of 'oppression', 'reliability' and 'fairness'. What is important is not whether the confession is true, but rather, whether it has been obtained by such means or in such circumstances which are likely to render it unreliable. The three concepts are dealt with principally under sections 76 and 78 of PACE. The former section is concerned with 'proof of facts' (the burden of proof is on the prosecution), whereas the latter is concerned with 'the exercise of judgement by the court'. Section 76 often involves some form of impropriety on the part of the prosecution and there are two relevant sub-sections: s76(2)(a) where the confession may have been obtained by oppression; s76(2)(b) or obtained in consequence of anything said or done which was likely, in the circumstances existing at the time, to render the confession unreliable. Section 78 may be concerned with a person's mental state, where it might be considered unfair to the defence, in view of the circumstances, to allow any admission to go before a jury. Birch (1989) uses the analogy of the prosecution having to clear a number of hurdles. If they succeed at the first (i.e., there is no evidence of any impropriety, or anything said or done, at the time, by the police relevant to s76 (a) & (b)) they then need to clear the second hurdle (s78) where "....there is a difficulty in assessing the height and breadth of the fence...." (ibid, p96), this is mainly because of the use of the discretionary power of the judge. If successful, the prosecution then finds a third hurdle may be presented by section 82(3) which effectively preserves the power of the court (under

common law) to exclude any evidence at its discretion. This is thought to relate to where the prejudicial effect of the evidence outweighs its probative value (see also Gudjonsson, 1992a, 1993, 1994b).

A definition of oppression is provided by section 76(8) and

"includes torture, inhuman or degrading treatment and the use or threat of violence (whether or not amounting to torture)."

PACE

In *R. v. Paris, Abdullahi and Miller*, [1993] 97 Cr. App. R. 99, the Lord Chief Justice, Lord Taylor, delivered one of the clearest judgements to date on the concept of oppression. The three defendants had been charged and convicted of the murder of a prostitute but the main thrust of the appeal was based on the treatment and interviewing evidence in relation to only one of the appellants: Stephen Miller. The grounds for the appeal were submitted under sections 76 and 78 of PACE. The court noted that there were three main issues to be addressed under section 76:

- The burden of proving beyond reasonable doubt that neither subsection applied (76(2)(a) or (b)) was on the Crown.
- What matters is how the confession was obtained, not whether or not it may have been true.
- Unless the prosecution discharged the burden of proof, the judge was bound as a matter of law to exclude the admissions. His decision was not discretionary.

As to the meaning of 'oppression' their Lordships referred to *Fulling* [1987] 85 Cr. App. R. 136, which recommended that the expression should be given its ordinary dictionary meaning. This was taken from the Oxford English Dictionary, third edition, as: 'Exercise of authority or

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power in a burdensome, harsh, or wrongful manner; unjust or cruel treatment of subjects, inferiors, etc.; the imposition of unreasonable or unjust burdens.'

Putting definitions aside, an examination of what their Lordships actually thought of the officers' interviewing tactics, is both illuminating and pragmatic. According to this judgement:

"The officers..... were not questioning him so much as shouting at him what they wanted him to say. Short of physical violence, it is hard to conceive of a more hostile and intimidating approach by officers to a suspect. It is impossible to convey on the printed page the pace, force and menace of the officer's delivery, ..." (ibid, p 103).

This was a highly critical judgement in respect of, not only the behaviour and performance of the interviewing police officers, but also the attendant solicitor. Further comment on this case will be provided in Part Three of this thesis when the entire interview, of nearly thirteen hours duration, is analysed as part of a sample of serious criminal cases. In summary, the appeal was allowed under section 76 as the interviewing tactics (shouting, hectoring, bullying) were deemed to be oppressive. Had this first stage of the application failed, the Court had already indicated that they accepted evidence that the defendant was on the borderline of mental handicap with an IQ of 75, a 'mental age' of 11 and a reading age of eight, which would have allowed them to consider the appeal under section 78. In fact, Professor Birch in a commentary to this judgement implies that the Appeal Court was " ...in danger of confusing the two separate heads of exclusion under section 76." (*R. v. Paris and others [1994] Crim. L. R. 361*).

Since the introduction of PACE, confession evidence has been excluded where the police have failed to:

- take into account the mental condition of the defendant *R. v. Everett [1988] Crim. L. R. 826*;
- caution the suspect *R. v. Doolan [1988] Crim. L. R. 747 C. A*;
- make contemporaneous notes *R. v. Ismail [1990] Crim. L. R. 109 C.A.*;
- provide an appropriate adult (AA) *R. v. Cox [1991] Crim. L. R. 276 - DPP. v. Blake [1989] 1 WLR 432*;
- allow access to a solicitor *R. v. Chung [1991] 1 Crim. L. R. 622 C.A. - R. v. Alladice [1988] 87 Cr. App. R. 380*;
- ensure that the defendant understood the police caution - *R. v. McGovern [1991] 92 Cr. App. R. 228*.

In other circumstances confessions have been excluded where the police have:

- deceived the suspect (and his solicitor) in relation to the strength of the evidence, by falsely stating that his fingerprints had been found *R. v. Mason [1987] 3 All E. R. 481*;
- claimed that the defendant's voice had been recognised on tape *R. v. Blake [1991] Crim. L. R. 119*;
- grossly misrepresented the nature and strength of the evidence available from witnesses *R. v. Heron [1993] unreported, Leeds Crown Court*.

(for further reviews of legal judgements concerning the inadmissibility of confession evidence with regard to mentally vulnerable suspects see Gudjonsson, 1992a; Collins, 1995; Palmer and Hart, 1996; National Crime Faculty, 1996)

1. 4. CONFESSION EVIDENCE - VULNERABLE SUSPECTS

Sections 60, 66 and 67 of PACE relate to the introduction of the Codes of Practice. The Codes are not primary legislation but they do have legislative power in as much as any breach of them may result in evidence being excluded at trial and police officers may be subject to disciplinary proceedings following any breach. The Codes were introduced in this format to provide:

“...a level of detail which is not possible in primary legislation.” (Tarling, quoted in Brown, Ellis and Larcombe 1992, p iii).

Of particular interest to this thesis is Code C, which is concerned with the detention, treatment and questioning of detainees, and Code E, which relates to the audio-taping of police-suspect interviews at police stations. The audio-taping of police interviews has proved invaluable for research, whilst surprisingly, very few actually get played in court (Baldwin, 1992a). Even in the appeal case cited above (*R. v Paris and others*), at the original trial, the judge only listened to the early stages of the offending tape. For reasons which were not explained to the Court of Appeal, the trial judge did not hear the latter part of the tape which contained blatant examples of police malpractice.

Another innovative safeguard introduced under Code C relates to the requirement for an 'appropriate adult' (AA) to be present where a suspect is thought to be vulnerable. A list of the people who can fulfil this role (which discriminates between juvenile and adult suspects) is provided in the Codes. It includes a relative or friend of the suspect or a professional person such as a social worker or community psychiatric nurse. Where a relative or suitably qualified individual is not available the police are advised that they can resort to “...another responsible adult aged 18 or over who is not a police officer or employed by the

police." (Home Office, 1995, pp 26-27). Code C also provides guidance for suspects who appear to be blind or seriously visually handicapped, deaf, unable to read, or unable to speak. Interpreters must be called where communication in English is a problem. According to the Codes:

"A juvenile or a person who is mentally disordered or handicapped, whether suspected or not, must not be interviewed or asked to provide or sign a written statement in the absence of the appropriate adult..." (ibid, p 55).

Such individuals are considered vulnerable because they may:

"..without knowing or wishing to do so, be particularly prone in certain circumstances to provide information which is unreliable, misleading or self incriminating" (ibid, p 56).

Confessions have been excluded where no AA is present. The case of *Cox [1991] Crim. L. R. 276* serves as a useful example of such a breach and it also addressed the important question of the reliability of the confession. The defence sought to exclude the interview evidence on a *voire dire* (a 'trial within a trial', where legal issues are debated in front of the judge, but in the absence of the jury) because there was no AA present. However, during the *voire dire* the defendant admitted one of the charges and the judge allowed the confession evidence on the basis of its truth. This was overturned by the Court of Appeal who decided that the judge should have directed his mind to the reliability of the confession, not whether it was true. The absence of an AA is not an automatic reason for excluding confession evidence. Recently, the Queen's Bench Divisional Court overturned a similar decision by Tamworth Justices, because they had not considered who was at the interview, how the interview went and the effect of the absence of an AA (*R. v Cornish, Times Law Report, 369, 27.1.97*).

1. 5. THE LEGAL RIGHTS OF A DETAINED PERSON UNDER PACE

Section 36 of PACE provides for the appointment of a Custody Officer at every designated station. This officer should be a supervising officer and independent of the investigation for which the detainee has been arrested (sub-sections (3) and (5) refer). The functions of the Custody Officer are to ensure that all aspects of the welfare of the suspect are catered for, to ensure he is aware of his legal rights and entitlements, and to make balanced decisions in relation to the suspect's continued detention. On arrival at the station, the detainee must be informed verbally of his rights (to obtain legal advice, to inform someone of his arrest and to consult the Codes). A written leaflet, the 'Notice to Detained Persons' should then be handed to the individual which expands upon the information already provided and outlines a further right, that of a copy of the custody record. Since the introduction of PACE, the presence of a legal adviser has continued to increase (Irving and McKenzie, 1989; Runciman, 1993). Issues in relation to legal advice and detainees' understanding of their legal rights are discussed later in this thesis. What is not in dispute is the crucial role that the Custody Officer has to play in ensuring that all aspects of PACE are implemented and adhered to. Morgan, Reiner and McKenzie (1991) actually describe the Custody Officer as "...the linch-pin of the whole system of safeguards" (quoted in Brown, 1997, p 73).

The role of the Custody Officer has also been subject to a number of criticisms. These concern the extent to which he or she can realistically remain independent from the investigating officers (who are often from the same station), the unquestioning manner in which the Custody Officer initially accepts responsibility for the detainee and the cursory fashion in which a detainee's legal rights are delivered

(Sanders, Bridges, Mulvaney and Crozier, 1989; Dixon, Bottomley, Coleman, Gill and Wall, 1990; Brown et al., 1992; McConville and Hodgson, 1993). McConville, Sanders and Leng (1991) suggest that the provisions of PACE are not evaded by the police; rather, they are used by them to *justify* detention in virtually every case. These authors consider that the Custody Record does not amount to an open and accountable record for each detainee, rather it should be seen as an official record that *validates* police action in the evidential construction of a case against a suspect (original emphasis).

Other studies offer a different perspective. In Dixon et al. (1990), one officer is quoted as saying:

"A prisoner is now the custody officer's prisoner and not the (investigating) officer's. The custody officer carries the can." Another commented, "A cough, at the end of the day, is less important to me than my job." (ibid, p 137).

A study of nearly 3,000 cases from seven police stations, suggests that all suspects received their legal rights, unless they were too drunk or actively mentally ill to understand their significance at the time (Robertson, Pearson and Gibb, 1995, 1996). These authors commented:

"We were all impressed by the quality of the custody sergeants. As a group, they are intelligent and they possess considerable experience and common sense." (ibid, 1996, p 305).

Under section 39(2) of PACE, where a Custody Officer transfers custody of the suspect to the investigating officer, the duties and responsibilities for the welfare of the suspect are also transferred. Most commonly, this occurs when the suspect is removed from the custody area for the purpose of an interview.

CHAPTER TWO

POLICE INTERVIEWING

2. 1. INTRODUCTION

Police officers continue to regard the interviewing of suspects as perhaps the most important stage of an investigation, bestowing upon this interaction an elevated status often to the detriment of other evidential sources (Walkley, 1987; Williamson 1990, 1994; Moston, 1990; McConville et al., 1991; Gudjonsson, 1992a; Baldwin, 1993; Stockdale, 1993; Bull and Cherryman, 1996; National Crime Faculty, 1996; Pearse and Gudjonsson, 1996a). A number of explanations are put forward in justification for this most "crucial site of policing" (Dixon, 1991, p 33). Within the police service a 'good' interview (where a confession is secured) is seen as enhancing an officer's reputation (Moston, 1990) and many officers are known to place great store by their (apparent) skills and interrogative expertise, although as Moston points out:

" Confidence, or on occasions arrogance, was often seen to equate with competence. " (1990, p 1).

In broader judicial terms a confession may prove economic; reducing the need for further lengthy police enquiries and suspects that confess often plead guilty, shortening the subsequent trial and reducing the need for any examination of police behaviour (Baldwin and McConville, 1980; McConville et al., 1991; Stephenson, 1992; Baldwin, 1993). Not surprisingly, obtaining a confession would appear to be one of the main objectives for officers conducting interviews (Williamson 1990, 1994; Moston, 1990; McConville et al., 1991; Stephenson, 1992; Gudjonsson, 1992a; Baldwin, 1993; Stockdale, 1993; Bull and Cherryman, 1996). Gudjonsson (1992a) points out that some evidence

can only be obtained by interview, especially issues related to "...intent, thoughts and feelings " thus "...interviewing is often the most important fact-finding method available to police." (Ibid, p 7). It also remains the case that in England and Wales, at the present time, a defendant can be convicted on the basis of an uncorroborated confession (Zuckerman, 1994) and in practice they often are (Gudjonsson, 1992a).

2. 2. PRE-PACE STUDIES

In a review of the psychological factors associated with custodial interrogation undertaken for the Philips' Commission, Irving and Hilgendorf (1980) proposed that the power of the situation (isolation, lack of control, dis-orientation, subordination) might be sufficient, on its own, to influence the decision making process of the suspect. Irving (1980) then carried out the first in a series of three observational studies at Brighton Police Station. The first was conducted in 1979 and 60 suspects were observed who were being interviewed by the police. This figure later rose to 68 for each of the studies undertaken in 1986 and 1987 (Irving and McKenzie, 1989). These studies are important as they allow a comparison to be made between pre and post-PACE research. In each case the researcher was allowed to sit in on police interviews, "to discover what special techniques, if any, are used to obtain information from suspects." (ibid, 1980, p 82). After the first study, Irving concluded that custodial interrogation (i.e. an interview conducted by the police with a person who is under arrest) was inherently coercive and that police officers adopted a number of manipulative and persuasive tactics which were remarkably effective in securing admissions. Intuitively, the hypothesis that one of the reasons why people confess is because of the nature of the tactics

employed by the police makes a great deal of sense. So what tactics did Irving encounter?

The average length of an interview in this pre-PACE study was one hour and sixteen minutes (range 5-382 mins, N=59) and he identified a total of 165 techniques, two thirds of which, he labelled manipulative and persuasive. The most popular were: convincing the suspect they have no decision to make (forensic evidence or witness/accomplice information, 34%); the use of police discretion and expert knowledge (taken together, 30%); influencing or altering the suspect's assessment of the consequences of confessing and questioning their self-esteem (21%), and the use of custodial conditions, confinement, authority or physical control (15%). An admission was made in approximately 62 per cent of the cases (N=60).

Softley (1980), who carried out observational studies in four police forces pre-PACE, identified at least one discernible tactic in 60 per cent (N=187) of the initial interviews observed. Pointing out contradictions (witnesses/accomplice) was the most common tactic (22%), followed by bluffing or hinting at further evidence (15%), and stressing overwhelming evidence (13%). It was clear that in a number of cases (11%), officers worked hard at establishing a rapport with the suspect although it is not clear if this tactic was evident only at the outset or represented a continuous technique. More coercive tactics were noted, especially where a suspect was being obstructive, for example hints at further detention were made (7%). In cases where the suspect was ashamed of his conduct or ashamed because of the nature of the offence, the police tended to diminish the significance of the conduct or the offence (or both) in 6 per cent of the cases. Finally, the benefits that could accrue by assisting police were outlined in 4 per cent of the

cases. Although Softley was of the opinion that questioning "..was often a skilled and difficult task" (Ibid, p 34), he points out that in 40 per cent of the cases, no special tactics were employed. Even so, some 61 per cent of suspects made a confession or admission.

The limitations of observational studies, in particular the effect of the presence of an observer on the behaviour of the police officers, were openly acknowledged by the authors; although surprisingly, the impact on the suspect was either not mentioned (Softley, 1980) or dismissed as 'groundless' (Irving, 1980, p 90). The limited number of cases involved in these studies makes it difficult to suggest that they were actually representative of what was taking place in other police stations across the country, a point accepted by Irving (1980) who described his study as more of a "a reconnaissance exercise" (ibid, p 82), whilst Softley (1980) lamented the dearth of serious criminal cases within his study. Of particular relevance to this thesis is the following insight provided by Softley:

" There were, for example, no cases of murder, armed robbery or rape. It is perhaps in relation to such crimes that the pressures on police to bring offenders to justice are normally strongest. In consequence it may be here that the Judges' Rules put special strains on questioning. " (ibid, p 11).

A more accountable and transparent medium for examining the inner dynamics of the police suspect interview was presented with the introduction of the audio-taping of all interviews.

2. 3. THE AUDIO 'INSIGHT' INTO POLICE-SUSPECT INTERVIEWS

The field of police interviewing represents an excellent example of the metamorphic impact of PACE on the investigation of crime by the

police. The introduction of the audio-taping of all police-suspect interviews (and in some cases video-taping) has finally opened up that inner sanctum, that for so long all levels of the police had guarded from outside inspection (Fisher, 1977; Baldwin, 1992a, 1993; Pearse and Gudjonsson, 1996a). One summary of what was believed to occur behind the closed doors of the interview is provided by McConville et al. (1991):

"The police have, at the most fundamental level, the ability to select facts, to reject facts, to not seek facts, to evaluate facts and to generate facts. Facts in this sense, are not objective entities which exist independently of the social actors but are *created* by them. The principal investigative strategy employed by the police is the interrogation. Shielded from external scrutiny, police interrogation has historically been viewed with deep suspicion, and accusations of torture, third-degree, trickery and blandishments of various kinds have been levelled against the police with more or less credibility at frequent intervals." (ibid, p 56, original emphasis).

The central theme of this argument is that the police interview represents the best opportunity to 'construct' a case against a defendant. The authors contend that the entire investigative and prosecution process should not be viewed as a gathering of facts to be presented before impartial judges (and juries), but rather it would be more appropriate to view the process as a 'social construction' of events, an opportunity to validate and legitimise the actions of the police.

Another perspective was provided by Lord Justice Devlin, who wrote,

"Often in the past, when the prisoner has gone into the witness-box and the jury has had an opportunity of contrasting the voluble incoherences which every question - even the kindest from his own counsel - touched off, with the lucid and well punctuated flow of statement taken at the police station, they must have known that the police account of the way in which the interview was carried on was nonsense." (quoted in Kennedy, 1971,p 13).

So what did the opening up of these 'closed doors' to outside scrutiny actually reveal? A considerable amount of research has now been conducted in this field and the overwhelming view suggests that the reality of police interviewing is far removed from that often portrayed by the media, as a gladiatorial conflict between the forces of 'good' and 'evil'. Perhaps the most comprehensive summary is provided by Baldwin (1994) who notes:

" It is, however, surprising that the single most striking characteristic of police interviewing to emerge from the author's examination of the tapes of interview is its general ineptitude. Much interviewing is simply feeble and aimless, scarcely matching the macho image of police interviewers as professional, skilled and forceful interrogators. The tapes reveal instead that many officers are nervous, ill at ease and evidently lacking in confidence. Even in the simplest cases, officers can be seen with their eyes glued to a written statement which they have evidently not even bothered to read before embarking on the interview." (ibid, p 67)

The author of these comments is the Professor of Judicial Administration at the University of Birmingham. An alternative view was recently

published by an experienced researcher and clinical psychologist, who suggested that police interviews can more realistically be regarded as:

"...non-threatening and somewhat banal." (Robertson, et al., 1996, p 306)

Such observations are not intended merely to refute the hypothesis advanced by McConville and others above, which clearly is worthy of further investigation, but rather they are designed to expose the dynamics of current, everyday police interviewing and to update the reader in this regard. What is interesting though, is that the views expressed appear to occupy two quite exclusive camps; 'banal' and 'inept' on the one side and 'conspiratorial' and 'selective' on the other.

Throughout this thesis, it is important not to lose sight of the wider legal context. The police interview represents only a fragment of the investigative process, which is in turn, only part of the criminal justice system in England and Wales. It is particularly relevant that this system is accusatorial by nature. For example, a number of commentators consider that the peculiar dynamics of the police interview can be seen as an artefact of the adversarial nature of the criminal justice system (McConville et al., 1991; Baldwin, 1993, 1994). A system that sets two sides against one another, with the prosecution required to prove a person's guilt 'beyond reasonable doubt' thus promoting a confession based and ultimately flawed judicial. Stephenson (1992) provides a variation on this perspective:

" Defence and prosecution promulgate opposed accounts of the suspect's blameworthiness, and it is left to the jury.....or the magistrate.....to pick the winning

version. It would be hard to think of a system better designed to encourage the presentation of distorted or lying versions of reality." (ibid, p 114).

2. 4. POST-PACE STUDIES

The essential difference in terms of the design of the two post-PACE studies undertaken at Brighton Police Station (in 1986 and 1987) was that the role of the principal observer was now undertaken by McKenzie, a former police officer (Irving and McKenzie, 1989). The authors present an efficient argument to mitigate the effects of this change, citing the considerable amount of pilot work and coaching undertaken. They conclude, however, that " McKenzie's detailed knowledge made critical analysis of observational data *more thorough* than had been the case in the original study. " (ibid, p 29, my emphasis). The subjective interpretation of data and other methodological issues concerning the reliability and validity of employing different researchers will be discussed later in this thesis.

The duration of interviews decreased to an average of 50 minutes (range 4-177, N=68, unfortunately only 1986 figures are given) and the presence of persuasive tactics, "...had been virtually eliminated by procedure" (ibid, 1989, p 172). In 1979 more than one tactic was present in 35 cases (59%) (range 2 - >10), but in 1986 in only 3 cases (4%) was there more than one tactic present (range 2 - 3). Intriguingly, whilst the number of manipulative and persuasive tactics declined, the number of admissions initially remained relatively constant at 62 per cent in 1979 and 65 per cent in 1986, although the figure declined to 46 per cent in 1987 (ibid, p 180). However, by distinguishing between serious and non-serious cases, they were able to show that admissions

for non-serious cases were more consistent at 54 per cent (1979), 68 per cent (1986) and 56 per cent (1987).

More recently, Baldwin (1993), who analysed 600 tapes of interview (both audio and video), was also struck by just how brief most interviews actually were. Although the range was very wide (one minute to nearly seven hours), almost three quarters were concluded within half an hour and only seven per cent lasted more than an hour. In fact, nearly a quarter were completed in under ten minutes. This reduction in the length of time makes sense when it is considered that immediately prior to the introduction of tape recording the officers had to write out contemporaneous notes of the conversation, a lengthy and laborious task that was not conducive to a natural and free flowing exchange of information.

Moston, Stephenson and Williamson (1990) raised some fundamental and highly pertinent questions over the general standard and competence of police officers conducting interviews (see also Baldwin 1992a, 1993). As noted earlier, Baldwin (1994) goes some way to dispelling commonly held beliefs that suspect interviews are often lengthy and complex interactions conducted with difficult suspects. When describing the attitude of suspects, for example, Baldwin noted that less than 14 per cent (N=600) were considered awkward or difficult to interview. His assessment of the quality of police interviews suggests nearly 36 per cent are poorly or not well conducted. Indeed, he is of the opinion that the outcome of such interactions is often a hit and miss affair where decisions to admit or deny involvement are made despite the techniques used, not because of them (see also Irving and McKenzie 1989; Moston, Stephenson and Williamson, 1992; Evans 1993a). In other words, if a suspect decides from the outset not to

admit an offence he or she will stick to that position "...regardless of how the interview is conducted." (ibid, p 333). This standpoint is supported by the finding that in nearly 36 per cent of cases a confession was made at the outset, and a further 26 per cent made a partial confession or subsequently went on to admit at least part of the allegation. It would appear, therefore, that lengthy interviews suffused with coercive and manipulative tactics have been replaced by shorter interactions, often conducted with helpful and polite suspects, where decisions to admit or deny offences are made despite, and not because of, any tactics employed by police.

2. 5. BEHAVIOUR AND ATTITUDE OF POLICE OFFICERS

Police officers bring with them attitudes and beliefs that are likely to influence their behaviour and interviewing techniques, this in turn may have a bearing on the decision making process of the suspect (Moston et al., 1992). The interviewing officers may know the suspect, they may have antecedent information and knowledge of any previous convictions; such information is likely to affect their impressions, attitudes and reactions (Pearse, 1995). For example, Firth (1975) suggests that a person's previous convictions may actually increase an officer's belief in the suspect's guilt, which is reflected in a longer and more rigorous interview. Trankell (1972) has identified a particular bias in police interviewing. Whereas ordinary conversation is often a mutual exchange of information, in the police interview this process is generally one-way, with the suspect answering the police officer's questions. This bias can exert a strong influence on the outcome of the interview.

The attitude and impressions of interviewing officers about to embark on a suspect interview, are especially important. As Gudjonsson (1992a) reminds us:

" Police officers have control over the immediate situation and enter the interview with certain assumptions, expectations and hypotheses about the event they are investigating. This affects the direction and nature of the interview. The stronger the interviewer's prior assumptions and beliefs, the greater the interrogation bias. perception is selective and interrogation bias may result in police officers being particularly vigilant and receptive to information that is consistent with their prior assumptions and beliefs, whilst ignoring, minimizing or distorting information that contradicts their assumptions. Information that does not support the interviewer's hypotheses may be erroneously interpreted as lies, misunderstanding, evasiveness or defensiveness." (ibid, p 14)

Echoes of the 'social construction' of evidence (McConville et al., 1991) are clearly evident in the cautionary note from Gudjonsson, above. American police, some researchers have noted,

"... too frequently become so zealously committed to a preconceived belief in a suspect's guilt or so reliant on their interrogation methods that they mistakenly extract an uncorroborated, inconsistent, and manifestly untrue confession." (Ofshe and Leo, 1997, p 193).

Gudjonsson and Petursson (1991) also makes the important point that detainees can harbour deep seated and long lasting resentment, as a result of being coerced or tricked into making a confession by police officers.

Some of these processes can be understood in social psychological terms by reference to 'Attribution Theory', the 'how' and the 'why' approach

that people employ to explain everyday events (Heider, 1944, 1958; Hewstone 1988; Hewstone and Antaki, 1988). One of the earliest contributions in this field came from Heider and Simmel (1944) who presented an innocent cartoon, depicting moving squares and triangles, to a number of subjects, who attributed personal attributes, such as friendly, aggressive or dominant, to the innocuous shapes on the screen. Heider developed a theory of 'Cognitive Balance' where a person's perceptions of the situation and feelings or emotions about the entities within the situation were able to fit together without any stress (Heider, 1958). Such balance will be maintained provided the information, or behaviour remains consistent with the individual's beliefs. Transferred to the police suspect interview, the interviewing officer(s) will be able to maintain this cognitive stability provided he (or she) receives information that confirms their original beliefs. Evidence to the contrary will produce a state of cognitive imbalance, which the officer will be motivated to change, which may be by challenging the veracity of the information or undermining the source. Heider's Balance Theory is similar to the theory of Cognitive Dissonance (Festinger, 1957).

There are a number of other aspects of attribution theory which are relevant to the police suspect interview. The first examines the notion of the individual as the 'prototype of origins', where actor and act form a causal unit (Heider, 1944). Thus, when events are linked or are proximate, one is likely to be seen as the cause of the other. For example, a 'bad' act is more easily attributed to a 'bad' person (Hewstone and Antaki, 1988) which supports the assertion raised by Firth (1975) above. An extension of Heider's early work is the concept of the 'Fundamental Attribution Error', which refers to the tendency to over emphasise internal or dispositional factors whilst under-emphasising situational influences (Ross, 1977; Hewstone and Antaki, 1988). Here, the observer focuses on the

behaviour of the actor because it is more salient than the situation. When things go wrong we tend to look for scapegoats, to attribute blame for acts the individual probably had little control over. The person claiming unemployment benefit is often judged to be lazy, when actually he is unable to find work (Gleitman, 1986). In the police interview, the importance of a suspect's previous convictions may outweigh his explanation or protestations of innocence.

Recognition of the existence of such biases and errors is an important step in being able to target appropriate police interview training and one disconcerting finding that the police training establishment were anxious to address was the indication that "Police officers typically start interviews with the presumption that the suspect is guilty." (Moston, 1992, 1996). An extreme example of this type of presumption can be found in the Inbau, Reid and Buckley (1986) interviewing model, which will be discussed in some detail in Chapter Four.

2. 6. POLICE TRAINING

The police response in England and Wales to these often critical research findings was swift and wide ranging. A national training course on "Investigative Interviewing" was created as a result of a collaboration between psychologists, lawyers, academics and practitioners, and is now circulated as a training document (CPTU 1992a, 1992b). A mnemonic 'P.E.A.C.E.' has been devised to compartmentalise the interview process and promote standard practice. In the 1992 training documents, 'P' represents preparation and planning; 'E', where officers are encouraged to engage the interviewee and explain the purpose of the interview; 'A', to allow for an account from the interviewee; 'C', to ensure the interview is brought to a conclusion, and 'E', the need for an evaluation is taught.

The concept of 'Investigative Interviewing' is intended to encourage a non-oppressive, non-coercive approach, with an emphasis on information gathering rather than obtaining a confession *per se*. An opportunity to "shift the police service from its traditional prosecution orientation and to encourage it to see its task as a search for the truth." (Williamson, 1994, p111). The same author rightly points to the golden opportunity for officers to introduce an inquisitorial element into a scenario traditionally dominated by the adversarial nature of the judicial system (Williamson, 1993).

Officers are now encouraged to utilise a structured approach which includes adopting many elements of the 'cognitive interview' (Geiselman and Fisher, 1989) and of the need for a versatile and discriminating approach given the importance of interviews with victims and witnesses, as well as vulnerable suspects. An evaluation of some pilot courses reported considerable overall improvements in interviewing skills (McGurk et al. 1993 p[v]). Very recently the National Crime Faculty, a subsidiary of National Police Training, published a revised package, 'Investigative Interviewing - A Practical Guide'. This contains a greater emphasis on the importance of the principles of investigative interviewing. Gathering evidence and obtaining information are outlined as the primary goals for the police officer, and the publication reinforces the need to plan and prepare for an interview, as well as how to expand, clarify and challenge where appropriate (National Crime Faculty, 1996).

Notwithstanding the widespread acceptance of the need to achieve a higher level of consistency and integrity in the field of police interviewing, some reservations have been expressed as to whether the ethical principles underpinning 'Investigative Interviewing' are widely understood

and by extension, implemented (Williamson, 1994). The formalisation of an empirically based and ethically sound interviewing model is an impressive achievement and it would be most unfortunate if the momentum behind the delivery of this model was impeded in any way. To quantify the volume of police interviewing, in an attempt to provide some idea of the scale of this activity, it is estimated that there are over a half a million interviews conducted annually with suspects for criminal offences (Williamson, 1997, private communication).

At this stage the insight provided by the audio-taping of all police suspect interviews appears to be generating more questions than answers. In the first instance, research appears to have dispelled the 'myth' of the macho style of police interrogations where skilful psychological ploys and coercive tactics were allegedly employed to breakdown the stubborn resistance of a suspect (Moston et al., 1990; Baldwin, 1993, 1994). The reality appears to be that suspects are likely to confess regardless of the tactics employed rather than because of them! Why then do suspects confess? One consideration is that the powerful situational forces, unique to the interrogation scenario, are influential in this regard (Irving, 1980; Irving and Hilgendorf, 1980) and this may expose the more psychologically vulnerable suspect to a disproportionate amount of pressure. The early identification of interviewees' psychological vulnerabilities by police and the use of careful questioning will help to secure a reliable statement or confession, but such vulnerabilities can also be manipulated and exploited, wittingly or unwittingly (Gudjonsson, 1992a; Pearse, 1995). The following chapter will examine those psychological characteristics thought to be relevant to suspects providing misleading or erroneous information, and critically review the legal safeguards that are in place to protect such individuals.

CHAPTER THREE

PSYCHOLOGICAL VULNERABILITIES

3. 1. INTRODUCTION

The purpose of this chapter is to discuss what is meant by psychological vulnerabilities and to examine a number of legal safeguards which are in place for the benefit of vulnerable suspects. This is not a straightforward subject and I propose to focus the issue within the criminal justice system in England and Wales.

3. 2. PSYCHOLOGICAL VULNERABILITIES AND THE ENGLISH LEGAL SYSTEM

Psychological vulnerabilities are typically conceptualised in purely clinical terms: disturbed mental state, learning disability, heightened suggestibility and so forth. However, when considering an individual suspect's psychological characteristics with regard to any criminal allegations he may be facing, there is a need to maintain an overall appreciation of the relevance of any vulnerability within the context of that specific case. A person may suffer from some form of mental disorder but what difference does it actually make when he is arrested? Or when he is interviewed? (Pearse, 1995). An examination of the case of Engin Raghip (one of the 'Tottenham Three' defendants charged with the murder of a police officer) will help to clarify this point and to illuminate some of the many legal issues surrounding the question of psychological vulnerabilities in criminal cases. This summary is taken from a more detailed account in Gudjonsson, 1992a, pp 309-313).

Engin Raghip was 19 at the time of his arrest in connection with the Broadwater Farm Riots, in Tottenham, in October 1985. He had learning difficulties and was illiterate. He was interviewed over a period of five days and on 10 separate occasions, lasting over 14 hours. There was no AA and there was no solicitor present (despite the recommendations of reviewing Magistrates on day three of his detention period). After this appearance in the Magistrates' Court he went on to make a number of incriminating admissions and was subsequently convicted and sentenced to life imprisonment. At his first trial in January 1987, the defence were in possession of two expert reports. One, was from a psychiatrist, describing the defendant as being probably of average intelligence but dyslexic. The other report related to psychological testing of his level of intelligence, reading ability and suggestibility (suggestibility relates to the tendency of people to give in to leading questions and interrogative pressure). According to these results, he obtained a Full Scale I. Q. (FSIQ) of 73 (borderline mental handicap), a reading age of 6 years and 3 months and average scores in relation to suggestibility. The psychologist responsible for this report did not emphasise the importance of the low I. Q. scores and went on to express doubts about the validity and reliability of some of the scores obtained as Mr. Raghip had achieved an average score on two of the Performance subtests, thereby producing an unusually wide range of scores overall. The defence chose not to make use of these two reports, presumably because they were not entirely favourable to their case.

Before the first appeal was heard, in December 1988, additional psychological tests were undertaken by a separate psychologist, which confirmed Mr. Raghip's limited intellectual capacity and literacy problems, together with a high level of anxiety (both state and trait).

Perhaps the most striking finding, however, was his inability to cope with interrogative pressure. In other words, his performance was normal until he was placed under pressure in the form of negative feedback. This additional psychological report was submitted to the Appeal Court emphasising the extent of these new findings, especially when placed within the context of intense periods of interrogation and his deteriorating physical and mental state.

The application, which was heard before Lord Lane, the Lord Chief Justice, failed. The Appeal Court commented not only on the doubts expressed by the author of the first psychological report but also on the fact that the defendant's I. Q. score was above 69. A classic example of the judiciary's willingness to categorise matters. Earlier, in the case of *Masih [1986] Crim. L. R. 395*, a judge had arbitrarily decided that an I. Q. of 69 or below could be taken as a definition of mental handicap. To reinforce their judgement, Lord Lane added:

"The jury had ample opportunity to gauge the degree of intelligence and *susceptibility* of Raghip when he gave evidence." (present author's emphasis)

A small piece of investigative work uncovered the reason behind the discrepancies in the two psychological reports, especially in relation to the defendant's suggestibility scores. At the time of the first test, Mr. Raghip appeared to the psychologist that was assessing him, to be 'angry and suspicious'. These are two conditions that impact on a person's level of suggestibility. The author of the first psychological report agreed with the second author's findings - that Mr. Raghip was in fact psychologically vulnerable. This proved to be a major breakthrough and the main grounds upon which new defence solicitors referred the case to the Home Secretary for consideration of a

further appeal hearing. The case was eventually sent back to the Court of Appeal and, in November 1991, the conviction was overturned. There are a number of very important lessons to be learnt from this one case.

- In the first instance, the case serves as a good example of the need to seek further examination of subjects where there is any doubt about the validity or reliability of earlier findings which may result in misleading conclusions being presented to the courts.
- Secondly, the case shows that it is not safe to rely on clinical impressions of intellectual functioning. The psychiatrist's report was wrong to conclude (without supporting evidence) that Mr. Raghip was probably of average intelligence.
- The Appeal Court also found that it was not safe to judge a person's intellectual or psychological characteristics solely from his demeanour in the witness box. This may have counted against Mr. Raghip, particularly as he was smartly dressed and appeared relaxed in court, suggesting the absence of any psychological vulnerabilities (Collins, 1995).
- The Court also ruled that where psychological vulnerabilities were at issue, then expert evidence from psychologists should be admitted to inform the court.
- Finally, the arbitrary cut off line for significant intellectual impairment established in the case of *Masih* was abolished. The Court ruled that it was unsafe to have such a demarcation. It was more important that

the issue of vulnerability be considered in the light of all the available evidence and the context of each individual case.

3. 3. WHAT IS PSYCHOLOGICAL VULNERABILITY?

The Engin Raghıp case is an excellent example of how acutely relevant individual psychological vulnerabilities are to a suspect's behaviour in police custody (Gudjonsson, 1992a, b); but does that mean that all vulnerable suspects will provide misleading information? The Codes remind us, for example, that "... juveniles or people who are mentally disordered or mentally handicapped are often capable of providing reliable evidence....." (ibid, p 56). Gudjonsson (1994b) suggests that there are typically two main issues to address in relation to the reliability, or otherwise, of self-incriminating admissions. These are:

" (1) Was the defendant, due to psychological vulnerability, entitled to the presence of an appropriate adult during the police interview?

(2) Are there any psychiatric or psychological grounds on which to challenge the admissibility and reliability of the confession? " (ibid, p 94)

Gudjonsson (1994b) interprets the term 'psychological vulnerability' as referring to psychological characteristics or mental states which:

- (a) impair suspects' ability to understand their legal rights,
- (b) render suspects prone, in certain circumstances, to provide information which is unreliable or misleading.

The same author has recently divided the clinical assessment of vulnerability into three groups:

- (i) Mental Disorder. This includes schizophrenia, depression, learning disability and personality disorder.

(ii) Abnormal Mental State. This may relate to a state of high anxiety, phobias (such as claustrophobia), and cases of recent bereavement. It is important to appreciate that people can suffer from an abnormal mental state, such as a high state of anxiety whilst in police custody, without having had a history of mental illness. This category will also include the increasing number of suspects arrested who are high on drugs or withdrawing from them.

(iii) Personality Characteristics. These include suggestibility, compliance, confabulation and acquiescence. Compliance is associated with eagerness to please and the tendency to avoid conflict and confrontation (Gudjonsson, 1989a). As it is measured by a self-report questionnaire, it may be easier to fake than suggestibility, which is measured by way of a behavioural test (Gudjonsson, 1984, 1987, 1997). Confabulation relates to people who fill in gaps in their memory with imagined material (Gudjonsson, 1992a), whilst acquiescence refers to people, who when in doubt, tend to answer questions in the affirmative irrespective of the content (Winkler, Kanouse and Ware, 1982). Acquiescence is more closely correlated with low intelligence than either suggestibility or compliance, whilst confabulation seems to be particularly strong in some cases of personality disorder (Gudjonsson, 1992a, 1994b; Smith and Gudjonsson, 1995a, b).

It follows that suggestibility and compliance are primarily relevant where the suspect is placed under some pressure by the police, either by way of leading questions or negative feedback. A suspect, can of course, be placed under pressure by other means. For example, he may be under pressure from the actual offender, or a co-accused to make admissions, or he might also be experiencing pressure in the form of internal strife, where he perceives the need to protect significant

others (Sigurdsson and Gudjonsson, 1996a, b). Whatever psychological characteristics of the suspect are present, they are likely to interact with many other variables, including the type and seriousness of the offence, strength of evidence, the length of detention, legal advice and the behaviour and attitude of the police officers (Moston et al., 1992; Pearse, 1995). Each case needs to be examined in relation to all the available circumstances, and it is not safe to suggest that, because a psychological vulnerability has been unearthed, any statement from the suspect will be unreliable or inadmissible. Gudjonsson (1994b), for example, is of the opinion that "Even when vulnerabilities are severe, they do not invariably or necessarily result in an unreliable statement." (ibid, p 96)

3. 4. LEGAL SAFEGUARDS FOR VULNERABLE SUSPECTS

The main provision within PACE and the Codes designed to prevent vulnerable suspects from providing misleading or unreliable evidence is the presence of the AA. Where an AA is present the Codes state:

"...he shall be informed that he is not expected to act simply as an observer; and also that the purposes of his presence are, first, to advise the person being questioned and to observe whether or not the interview is being conducted properly and fairly, and secondly, to facilitate communication with the person being interviewed." (ibid, p 55).

The advice envisages an active rather than a passive role in terms of 'what' the AA should do but this definition of the role is poorly worded and experience suggests that it does not appear to have been thought through (Pearse and Gudjonsson, 1996b, c, d). To start with the AA is informed that 'he' is not expected to 'act simply as an observer', but in the same sentence the advice specifically tells 'him' to do just

that, viz., 'to observe whether or not the interview.....'. It would make more sense if the extract became 'to ensure that the interview is being conducted properly and fairly, et seq.

It is also not clear exactly what advice should be given? Should an AA provide legal advice? Or indeed advice that overrides legal advice? According to one legal source the role includes:

".. advising the suspect about a number of crucial decisions that have to be made while at the police station, such as when to remain silent and refuse to answer police questions." (Rhead, 1997).

This interpretation by Rhead (a criminal solicitor and visiting university lecturer) suggests that the AA can indeed provide legal advice, even though this is totally contrary to the spirit and letter of PACE. Problems surrounding the role of the AA have already been articulated in a number of recent publications emanating from this project and although it is not proposed to revisit all the issues in this thesis, it may suffice to outline just one of many actual examples which succinctly captures some of the difficulties surrounding the role of the AA (for a review of other issues concerning the availability, suitability, funding and training of the AA, see Pearse and Gudjonsson, 1996b, c, d).

In this case, a clinical psychologist was called in by police officers to act as an AA and to assess a man arrested for murder; whose behaviour the police had described as 'very odd'. The solicitor acting for the suspect refused the AA permission to see his client on the grounds that he had been called in by the police and that anything his client might say to him as an AA would not be confidential. In interview the suspect exhibited very idiosyncratic behaviour but without the benefit of a prior assessment the AA was unable to accurately

interpret the symptoms. What was the AA to do? This case serves as a practical example where it was not possible for the AA to "advise the person", or effectively "observe" the fairness of proceedings or indeed "facilitate communication". His role as an AA was redundant, his participation reduced to that of an observer, even though "...he shall be informed that he is not expected to act simply as an observer.." (Pearse and Gudjonsson, 1996c, p 55).

As noted earlier, suspects must be informed of their rights by the Custody Officer when brought to the police station. For a number of reasons, not all suspects take advantage of the right to free legal advice. According to Brown et al. (1992), some decline in the belief that it would not assist their case (63%; N=181), others, that it would delay their release (12%) or felt it was unnecessary (5%). An earlier study reported a small number of suspects may also exhibit a certain distrust for the duty solicitor; "....because my experience of solicitors is bad." or "Because he weren't no bloody good!" (Sanders et al., 1989, p76).

Another perspective is provided by McConville et al. (1991) who found that police officers adopt numerous ploys to discourage suspects from talking to a solicitor. These included not mentioning the right at all, explaining that it would delay the detention period, and failing to pass the request on (see also Sanders et al., 1989). It should also be appreciated that as not all suspects are detained for criminal (or notifiable) offences, not every suspect is interviewed. Just over two thirds of the suspect population are arrested for minor public order matters, drunkenness, prostitution or on a warrant; this often precludes the need for a tape-recorded interview (Williamson, 1990; Robertson et al., 1995).

With regard to mentally disordered offenders, an important consideration is the extent to which they understand what is taking place in the police station. The average criminal suspect tends to be of lower than average intelligence (Gudjonsson, Clare, Rutter and Pearse, 1993), and research has consistently shown that both the 'Notice to Detained Persons' and the Codes are difficult to understand. They contain lengthy sentences composed of considerable technical 'jargon'. It has been estimated that the 'Notice' is understood, in its entirety, by fewer than one in four of the general population (Gudjonsson, 1990a, 1991a, 1992a, 1993, 1994b; Clare and Gudjonsson, 1992a, 1992b, 1993, 1995). It is a distinct possibility therefore, that for a small but significant proportion of suspects who choose not to have legal advice, the actual reason may be that they do not understand their entitlements, rather than that they are exercising their prerogative in a careful and considered manner.

3. 5. THE IDENTIFICATION OF PSYCHOLOGICAL VULNERABILITIES

The introduction of the concept of an AA was welcomed by many observers but the process of implementation was fundamentally flawed, with the legislation assuming that in the first instance, identification would take place. Secondly, in creating this 'right', no complementary mechanism was established to ensure that the subsequent demand could be met (Pearse, 1995; Pearse and Gudjonsson, 1996b, c ,d). Such an unhealthy predicament is analogous to the position of solicitors attending police stations prior to January 1986. Then PACE introduced, as primary legislation, a person's unequivocal right to consult with a solicitor, free of charge and also introduced the mechanism to provide such a service, by creating Duty Solicitor Schemes. As a result, the presence of legal advisers at police

stations has continued to grow (Brown et al., 1992; Pearse and Gudjonsson, 1997). Not only was the concept of an AA introduced without sufficient thought for exactly 'what' an AA was supposed to do, but given the complete absence of resources, questions must also be raised in terms of 'how' it was to be carried out and, 'who' would undertake the onerous responsibility of acting as an AA.

One pressing issue in relation to providing safeguards for vulnerable suspects concerns the worryingly low numbers of AAs (appropriate adults) who are being called to police stations on behalf of mentally disordered offenders. Williamson (1990), for example, analysed 1,323 tapes of adult suspects' interviews, at which only five AAs were present (0.4%). In Brown et al.'s observational study (1992), of 10,048 cases only 106 (1%) received an AA (with the majority of these suspects detained at the police station as a place of safety under s136 of the Mental Health Act 1983). Bean and Nemitz (1994) reviewed 19,472 Custody Records at four police stations across the UK where only 38 AAs were called (0.2%). Finally out of 2,947 suspects seen at police stations in London only 13 received an AA (0.4%) (Robertson et al., 1995). A major obstacle to such identification concerns the lack of operational guidelines and working definitions for the police to employ.

3. 6. ADDITIONAL PROBLEMS WITH PACE SAFEGUARDS FOR VULNERABLE SUSPECTS

This section will examine the issue of identification at both the individual level - that of the Custody Officer, and also present the details of an actual case which raises questions over the ability of the criminal justice system, as a whole, to safeguard vulnerable suspects. It will be seen that even when investigating officers and members of the medical

profession appear to have taken every possible precaution, the resultant confession may still be ruled inadmissible.

Individual decision making of the 'gatekeepers' in the system.

The welfare and treatment of all detainees is the responsibility of the Custody Officer (s39 PACE). It is he (or she) who must call the AA and a police surgeon (Code C, p 29 and p 47). They are the gatekeepers in the system. As the majority of officers employed in this role are unlikely to have any training in the identification or management of mental disorder, it makes sense to err on the side of caution when issuing instructions in this regard. Accordingly, the Codes employ a catch all phrase 'mental disorder' (where it may not be possible to distinguish between mental illness and mental handicap - Williamson, 1990; Gudjonsson, 1992a). Part of the problem is, what exactly does mental disorder mean? All three editions of the Codes have always included the following paragraph:

“ If an officer has any suspicion, or is told in good faith, that a person of any age may be mentally disordered or mentally handicapped, or mentally incapable of understanding the significance of questions put to him or his replies, then that person shall be treated as a mentally disordered or mentally handicapped person for the purposes of this code.” (ibid, p 26 - my emphasis)

At the conclusion of this paragraph the Codes refer the reader to Notes for Guidance 1G (these notes are appended to each section of the Codes for additional guidance, but they are not part of the provisions of the Code). The Note states:

“ The generic term 'mental disorder' is used throughout this code. 'Mental disorder' is defined in section 1(2) of the

Mental Health Act 1983 as 'mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind'. It should be noted that 'mental disorder' is different from 'mental handicap' although the two are dealt with similarly throughout this code." (my emphasis). The note then reinforces the cautionary stance already adopted, by reaffirming that "Where the custody officer has any doubt as to the mental state or capacity of a person detained an appropriate adult should be called." (ibid, p 29).

Gudjonsson (1993, 1994b) has identified two major problems with the generic term 'mental disorder'. Firstly, there is no operational definition of what exactly constitutes mental disorder (making it particularly difficult for untrained police officers to identify a condition not adequately defined). Secondly, the Codes fail to indicate how certain characteristics, such as mental illness or learning disability, render suspects vulnerable or 'at risk' (see also Clare and Gudjonsson, 1995).

A definition of mental handicap is found under s77(3) of the Act. This includes any person, " in a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning;". It is questionable whether such definitions, located in two separate references, are conducive to achieving the desired goal of increasing the identification of vulnerable suspects (Pearse, 1995). It is thought the continued distinction between mental handicap and mental illness (in legal texts) can be traced to the first Home Office Instruction in this field (No. 109/1976). This instruction pre-empted the findings of the Fisher Report (1977) and was concerned only with the interrogation of mentally handicapped suspects, as opposed to the mentally ill.

The problem for the Custody Officer manifests itself when there is a need to consider calling a police surgeon (in the London area these doctors are referred to as Forensic Medical Examiners, FMEs) for a mentally disordered suspect. The doctor is called to assess 'fitness to detain' the suspect and increasingly the doctor is asked to certify 'fitness for interview'. The Codes, are quite specific:

" The custody officer must immediately call the police surgeon if a person brought to a police station or already detained there: (a) appears to be suffering from physical illness or a mental disorder;...." (ibid, p 47).

The crucial point here is that this initially rather explicit instruction only uses the term mental disorder. There is no reference to mental handicap, mental state or mental capacity. Research suggests that the Custody Officer (who must have the necessary suspicion of mental disorder) will summon an FME and delay calling an AA until the doctor has given his or her opinion (Bean and Nemitz, 1994; Blackie, 1995; Palmer and Hart, 1996). Effectively, the role of the gatekeeper has been transferred to the FME by this inappropriate practice, even though the doctor is unlikely to have received any specific training in this regard (Robertson, 1992; Palmer and Hart, 1996). If a police surgeon is called to attend a suspect thought to be suffering from some form of mental disorder, then an AA should also be called. You cannot have one without the other; to do¹⁹₄ would represent a breach of the Code. Why then do Custody Officers appear to be abrogating their responsibility?

In one study, reservations over the suitability and availability of the AA were presented as a reason for not always implementing this safeguard (Pearse, 1995). Another reason put forward by Palmer and

Hart (1996) is that suspects with mental handicap do not *per se* need medical attention. This later study is a classic example of the confusion that can arise over this issue of definition. In an otherwise illuminating report, they argue on the one hand that "The requirement to call a police surgeon is entirely separate from the requirement to call an appropriate adult. Where one is called but not the other, a breach of the Codes will have occurred." (ibid, p 45). Such an assertion must be based on accepting the term mental disorder as truly ubiquitous. But elsewhere they argue that " ... there is no specific requirement on the Custody Officer to call a police surgeon if the detained person appears to be suffering from mental handicap." (ibid, p 42). In other words, the authors are guilty of uniting the two forms of mental vulnerability in the former proposal and separating them in the latter.

There may, however, be some reason for optimism. Robertson et al. (1996) reported that Custody Officers were capable of being more conservative than FMEs and they provide a number of examples where the officers disagreed with the doctor's opinion and acted on their own judgement. For example, there were several cases where the doctor judged the detainee fit for interview but the Custody Officer disagreed and bailed the person to return for interview. The same was also true in relation to decisions regarding the need for an AA. In one case, the doctor thought the person fit for interview without an AA. The Custody Officer disagreed and called an AA. The authors conclude:

" In those situations when they called an appropriate adult, though the police surgeon had not advised this was necessary, we usually shared the opinion of the officer rather than the doctor. " (ibid, p 305).

It may be the case that a generic term, devoid of a medical label, would ameliorate the current situation. In the first edition of the Codes, for example, the term 'Persons at risk' appeared and included juveniles, the mentally ill or mentally handicapped (ibid 1985b, p 58). The term 'at risk' is certainly elastic enough to cover the many groups and idiosyncrasies involved and is powerful enough, semantically, to deliver the required message (Pearse, 1991, 1995; Gudjonsson, 1993, 1994b). A person who does not suffer from a recognised mental disorder (e.g., a person suffering a recent bereavement may be vulnerable during any police questioning, because of feelings of distress or guilt - Gudjonsson, 1994b) may be 'at risk' of providing misleading or erroneous information to the police. Such a neutral label also removes the difficulty of having to attempt to distinguish between the categories of mental disorder that now exist, as these appear to succeed in introducing an element of confusion amongst police officers (Williamson, 1990; Pearse, 1995). In order to be consistent with the Codes, the generic term mental disorder will be employed in this thesis. Any reference to a psychologically vulnerable suspect will include a person suffering from mental illness, mental handicap (learning disability), any psychological vulnerability or abnormal mental state.

An overview of the safeguards for vulnerable suspects under PACE.

In order to ensure the admissibility and reliability of confession evidence, police officers are increasingly turning to psychologists and psychiatrists to advise them on the mental state of detainees prior to conducting an interview. When interview evidence is scrutinised later at court, the test that is applied is an objective one; it matters not that the officer had no reason to suspect that the detainee may be mentally disordered (*R. v. Everett [1988] Crim. L. R. 826*). In such

circumstance the views and opinions of the police surgeon or visiting psychiatrist are often relied on by the police when seeking guidance on the question of 'fitness for interview'. Unfortunately, whilst some operational criteria exist concerning 'fitness to plead' or 'to stand trial', there are at present no agreed criteria that can be applied to determine 'fitness for interview' (Gudjonsson, 1995a). Currently, police surgeons are asked to address the question of 'fitness for interview' and they often have to give evidence in this regard at subsequent court proceedings, even though the term is not recognised in PACE. In this instance, it is not a case of ambiguous guidelines, rather it is the absence of them.

Gudjonsson (1995a) discusses the case of a 34 year old man arrested for murder who was known by the police to have a psychiatric history. A psychiatric social worker attended the interview as an AA and a solicitor was also present throughout. Prior to the interview, the suspect was seen by a police surgeon and in view of the serious nature of the allegation a psychiatric assessment was undertaken by a consultant psychiatrist, who concluded: 'He is calm and coherent; he has no overt psychotic symptoms but some evidence of thought block. He seems to understand why he has been brought to the police station. In my opinion he is fit to be interviewed.' This view was also shared by the AA. Although the suspect made no incriminating admissions during the interviews, he did make a number of denials. According to the prosecution, he also provided information that suggested he had a special knowledge of what took place at the murder scene, which they intended to rely on.

A subsequent psychological examination revealed that his memory and concentration were extremely poor and he achieved a prorated

FSIQ score of only 62. According to the Custody Record, the suspect's solicitor had been unable to explain the police caution to him and the solicitor was of the opinion that his client was not fit for interview.

Additionally, a detailed examination of the police interviews revealed evidence of disorientation, confusion and concrete thinking. At the trial, the defence argued that their client had been unfit for interview and therefore it was unfair to allow any statements made by him to go before the jury (under s78 PACE). The judge ruled the statements from the interviews inadmissible, despite the fact that he thought that the police had dealt with the suspect 'in an impeccably fair and considerate way'. His judgement noted that the police interviewing tactics did not contain long, oppressive, complicated or leading questions, and the officers avoided questions which were suggestive of the answers that they wished to be heard. On what basis then did the judge base his ruling?

There were four main issues. To start with, the two doctors called by the prosecution had not addressed the question of the reliability of answers given by suspect. Instead they had considered whether the suspect could sustain the ordeal and stress of a police interview (on a serious charge) without suffering any harm to his physical or mental health. Secondly, the weight of the psychological evidence adduced showed that the suspect was paying little or no attention to the significance of the questions he was being asked. Accordingly, it is not possible to rely on his statement having the necessary sense of guilt, that the prosecution would wish to rely on. Thirdly, the suspect was not capable of appreciating the significance of the police caution. Finally, the judge was of the opinion that the jury would find it impossible to decide which parts of the interview the prosecution sought to rely on and which they did not.

Using the judgement laid down in this case, Gudjonsson (1995a) has outlined a conceptual framework for future forensic assessment. This assessment examines three basic criteria relating to the functional abilities of the suspect (i.e. his understanding of what is happening) although all three may not be required in every case. The assessment should include an examination of whether the suspect understands the police caution, after it has been carefully explained. Secondly, is the suspect fully orientated in time, place and person? In the example (above) the suspect confused both the solicitor and the AA with the police. Finally, is the suspect likely to give answers which can be misconstrued by the court? Detainees may be so mentally disturbed that they will say anything in order to fulfil their immediate needs.

One worrying aspect, of the two situations which have been outlined is that after more than a decade since the implementation of PACE, a number of key players in the legal process still do not appear to fully understand the safeguards in place for mentally disordered suspects - a finding that echoes one of the original concerns raised in the Fisher Report (1977) and which ultimately, led to PACE. What is perhaps more encouraging is the valuable contribution that psychology is making to this field. The criminal justice system has shown itself capable of responding to the opinions and judgements of experienced psychologists whose expert evidence has often played a substantial part in bringing about reform. The question of 'fitness for interview' and the development of a conceptual framework for assessment serve as a case in point (for a recent review of significant contributions from forensic psychology and psychiatry that have led to changes in the criminal justice process, see Gudjonsson and Mackeith, 1997).

CHAPTER FOUR

THEORETICAL MODELS OF CONFESSION: WHY DO SUSPECTS CONFESS?

4. 1. INTRODUCTION

In many respects, confession is an irrational act (Ofshe and Leo, 1997). When the likelihood of imprisonment, the possible financial penalty or the loss of self-esteem arising from the decision to confess is considered, it is somewhat surprising that the majority of detainees make admissions (Moston and Stephenson, 1993a; Pearse, Gudjonsson, Clare and Rutter, 1997). One obstacle to uncovering why this should be the case is that it is likely to be a combination of factors rather than any one factor in isolation. The purpose of this chapter is to outline the results of early research studies and to examine the development of a number of theoretical models in this field.

One important limitation with this type of research that needs to be identified at the outset relates to the absence of the 'ground truth' in most cases. People may be motivated to confess purely because they committed the offence, but the extent to which this is actually the case is unknown. It is quite common, for example, for suspects who have made a confession to the police to later retract their statement when they reach court. This may be to avoid the consequences of conviction (loss of liberty) or for tactical reasons (on the advice of their lawyers). It may also be because the suspect is innocent, which implies that he may have initially made a false confession. However, many of the suspects arrested and charged by the police are likely to be guilty of the allegations made and at court will tend to plead guilty. In cases

where a person pleads 'not guilty' the function of the court is not a search for the 'ground truth'; rather the courts seek to determine the more manageable concept of proving a case 'beyond reasonable doubt'. This is not an option that is open to empirical research and such a limitation needs to be articulated. It should also be emphasised that this thesis is not concerned with whether a suspect has made a false confession, but rather, it is concerned with examining what it is that was said or done, in the first place, to make them confess.

4. 2. EMPIRICAL RESEARCH

Early research that set out to improve our understanding of why suspects confess typically examined the influence of a single variable, such as age, the type of offence or previous criminal history, but this approach produced rather conflicting results. (Leiken, 1970; Neubauer, 1974; Softley, 1980; Baldwin and McConville, 1980; Mitchell, 1983). According to some studies, younger suspects were more likely to confess than their older, perhaps more psychologically mature, counterparts (Leiken, 1970; Softley, 1980). Baldwin and McConville (1980), in their Birmingham Crown Court study, reported that 62 per cent of those aged under 21 confessed, compared with only 32 per cent of those aged 40 or more (the findings from their London sample were very similar). In contrast, other studies have not found age to be a significant factor (Neubauer, 1974; Mitchell, 1983; Moston et al., 1992). A similar situation was also reported in relation to previous convictions. The majority of studies suggest that those suspects with previous convictions are less likely to confess (Neubauer, 1974; Softley, 1980; Moston et al., 1992) yet the findings from the studies by Baldwin and McConville (1980) and Mitchell (1983) are in the opposite direction, with the actual number of convictions appearing to be of little relevance.

Some consistency was found in relation to the type of offence under investigation. In general terms, suspects interviewed for property offences were more likely to confess than those accused of crimes of violence. Mitchell (1983) reported a confession rate of 76 per cent for property offences and just over 64 per cent for violence against the person. Neubauer (1974) reported figures of 56 per cent and 32 per cent, respectively. One explanation for this finding was thought to be the increased likelihood of independent forensic evidence (stolen property, fingerprints) in property cases compared with allegations of assault, where counter claims were often made and statutory legal defences (self-defence) are available. Another conflicting finding from these early studies was the considerable variation detected between police forces. The tendency to relate isolated variables to the outcome of a case in this fashion has been criticised as it will tend to provide plausible, yet unreliable results (Moston et al., 1992).

Situational factors

The Codes now regulate the length of police interviews and recommend periods of rest and refreshment for the detainee. The prolonged detention of a suspect is now restricted; in the first instance to 24 hours, when further authority must be obtained from a Superintendent to continue until 36 hours, after which a person must either be charged or a warrant of further detention obtained from a Magistrate. This legal structure was not in place prior to January 1986 and research conducted pre-PACE consistently emphasised the debilitating influence of the coercive and intimidating environment experienced by most detainees. In their review for the Philips' Commission on the psychological literature on interrogation techniques, Irving and Hilgendorf (1980) devoted considerable

attention to the situational factors that were likely to impair a suspect's thought processes and the stresses arising from detention; where stress is seen " ... as a cause of performance impairment." (ibid, p 28).

According to these authors, the types of stressors relevant to the interrogation process are those caused by confinement and isolation from peers; submission to authority and the physical environment at the police station. Irving (1980) then went on to conduct his observational study at Brighton Police Station and reported that the physical environment (and the exercise of control by the police over both the environment and the detainee) played an important part in influencing the decision making of the suspect. He concluded " The use of confinement is widespread and markedly effective." (ibid, p 146).

Gudjonsson (1992a) notes that the physical characteristics of the interrogation environment may cause anxiety and fear in some suspects, especially if that person is not familiar with police detention. An important cautionary note is also added: familiarity with police detention should not always be assumed to be a stress reducing factor, especially if the previous experience(s) have been so traumatic that it has prevented the individual from developing coping strategies or to learn constructively from the experience (Shallice, 1974; Gudjonsson and MacKeith, 1982). Research suggests that powerful psychological and situational pressures places the detainee in a very vulnerable position and exposes him to manipulation by the police. Detainees, for example, have little or no control over what is happening to them, whilst the police are able to exert maximum control and authority (Irving, 1980; Inbau, Reid and Buckley, 1986; Gudjonsson, 1992a).

Legal advice

Studies prior to PACE suggested that a relatively small number of suspects asked to see a legal adviser and that an even smaller percentage were successful (Softley, 1980). Other studies noted that requests for such advice (and refusals) were related to the seriousness of the offence; in more serious cases up to three quarters of requests were turned down (Baldwin and McConville, 1979). As an example, of the 71 people charged with murder, affray, riot or petrol bomb offences in the wake of the Tottenham Riots (6th October 1985), only three defendants had a legal adviser present at the time they made admissions (Gudjonsson, 1992a). Research post-PACE suggests that whilst the presence of a legal adviser has increased (Irving and MacKenzie, 1989; Gudjonsson, 1992a; Runciman, 1993) great variation has been detected across the country both in terms of advice and uptake (Sanders et al., 1989; Dixon et al., 1990; Baldwin, 1993).

One study reported 41 per cent of suspects receiving legal advice, either in person or over the telephone, (Moston et al., 1992; N=1,067) and Baldwin (1993) found that up to 50 per cent of suspects had a legal adviser present in interview at one of six participating police stations (range, 17-50%; N=100 x 6). Legal advice has also been found to have a significant effect on the behaviour of the suspect and the outcome of the interview. Moston et al. (1993) report a significant association in relation to a suspect's use of the right to silence and legal advice. In their substantial sample (N=1067), the right to silence was employed in nearly a third of cases where legal advice was given, compared to less than 5 per cent when it was not. The same authors also report that legal advice was found to be associated with a suspect's decision to admit or deny the offence, with full admissions

dropping by almost 20% when a suspect had contact with a legal adviser. Another significant factor in this study included the police station involved, although the authors did not speculate on the reasons for this (differences between police stations will be discussed further in Part Two of this thesis).

4. 3. THEORETICAL MODELS OF CONFESSION

Gudjonsson (1992a) outlines five separate theoretical models. Although these models approach the confession process from different perspectives, they all appear to contain one central theme i.e., that the subjective perceptions and experiences of each suspect, what he or she believes will happen, rather than the objective probabilities of occurrence, can greatly influence the suspect's decision to confess (Pearse et al, 1997). The first model not only attempts to explain the cognitive processes at work but also suggests how to breakdown the reluctant suspect. This is the Reid model (Inbau, Reid and Buckley, 1986) developed in America and first published in 1962. This is a very popular model, whose tactics are commonly employed by police officers in England and Wales, and whose methods were persistently plagiarised by those responsible for fledgling police interview training schemes prior to the introduction of the national 'P.E.A.C.E.' model (Walkley, 1987; Moston, 1992).

4. 4. THE "REID MODEL "

The model seeks to explain the psychological processes at work in relation to the 'nine steps' of interrogation developed by John E. Reid and Associates of Chicago. Reid was formerly a member of the Chicago Police Scientific Crime Detection Laboratory and the 'nine steps' were formulated after studying successful interrogations and debriefing suspects after they had confessed. The steps describe in some

detail the variety of tactics available. Their success is dependent on a thorough preparation concerning all the facts in the case and a prior 'behavioural analysis' to determine whether the suspect is being truthful or deceptive. Given the wholesale plundering of this technique by English police forces (as identified by Irving, 1980; Softley, 1980; Moston, 1992) and the formal adoption of many aspects of the model in a recognised English police training manual (Walkley, 1987) it is proposed to review in some detail the recommended 'nine steps' before examining the psychological processes that underpin their utility. Some indication of the essence of the advice is provided in the introduction to the manual:

"We do approve, however, of such psychological tactics and techniques as trickery and deceit that are not only helpful but frequently indispensable in order to secure incriminating information from the guilty," (ibid, p xiv).

Chapter Six of the manual is titled, 'Tactics and Techniques for the Interrogation of Suspects Whose Guilt Seems Definite or Reasonably Certain - The Nine Steps to Effectiveness' (guilt, the authors emphasise, only signifies the interrogator's opinion, ibid, p 77).

"STEP 1: DIRECT, POSITIVE CONFRONTATION"

It needs to be emphasised to the suspect in a "slow, deliberate and confident manner" that he is responsible for committing the alleged offence, e.g., "Our investigation shows that you are the one who....." (ibid, p 83). Securing the psychological advantage by leafing through a folder of incriminating material and emphasising the extent of the investigation are both recommended, whether such statements are real or invented, the impression is most important. After the initial statement, the interrogator pauses to note any behavioural response whilst contemplating the next tactic.

“STEP 2: THEME DEVELOPMENT”

Different themes are recommended for emotional and non-emotional offenders. An approach that minimises either the seriousness of the offence or the suspect's responsibility for it are considered appropriate for emotional offenders whose troubled conscience (shame and guilt) requires a moral excuse, e.g., “Joe, I can understand how this happened....” (ibid, p 83). The repeated use of this tactic represents an assault on the perception of the suspect. The goal is to convince him that he is a less reprehensible person and thereby “..... achieve an implicit, if not explicit, early, general admission of guilt.” (ibid, p 97). This can be achieved by gaining the suspect's trust with an understanding and sympathetic attitude. Examples of the themes recommended include:

- (a) Normalising their behaviour. In those circumstances anyone would have done what you did.
- (b) Minimising moral seriousness. Others have committed far more shameful acts.
- (c) Suggest a more morally acceptable reason. You didn't mean to harm anyone; you only did it because of the drink/drugs, or similar face-saving excuse.
- (d) Sympathise with suspect by condemning others. Apportion some of the blame on the victim, witness or some other person.
- (e) Appeal to suspect's pride with selective flattery. Considered effective with uneducated suspects who may be more dependent on the approval of others and therefore prone to manipulation in this way.
- (f) Point out possibility of exaggeration on part of victim. This may induce the suspect to make a partial admission, to be built upon.

(g) Point out the grave consequences and futility of denial. Thought effective for someone caught 'early in the game' or first time offenders, to own up and prevent serious trouble later in life.

For non-emotional offenders (someone who appears able to insulate himself from the interrogation process) the authors recommend the interviewers should:

(h) Seek to catch the suspect lying about some incidental issue. Once this is achieved the suspect will always be faced with convincing the interrogator he is telling the truth.

(i) Get the suspect to place himself at the scene. If achieved early on the suspect may not fully appreciate the significance, even if the act or offence is disputed.

(j) Point out futility in denying involvement. Requires the interrogator to be able to convince the suspect of the weight of evidence against him.

(k) Play one co-accused against the other. Often involves a bluff of some description and therefore should be resorted to after other tactics have failed.

"STEP 3: HANDLING DENIALS"

This is an important stage. A suspect must not be allowed to achieve a psychological 'fortification' by persisting with denials. He is to be interrupted and told to listen to what the interrogator has to say. A well known strategy often involving two officers working together, the 'friendly/unfriendly' approach, is recommended (also known as the 'sweet and sour' routine). This accentuates the difference between the two approaches promoting the mildest tactic as more appealing to the suspect.

"STEP 4: OVERCOMING OBJECTIONS"

Objections are introduced by suspects to gain control over the interview as their denials weaken. These objections will often fall far short of presenting legitimate evidence of innocence, e.g., 'I don't own a gun so I couldn't have committed the robbery.' If the suspect thinks the objections are not successful, he may become withdrawn - he is now at his lowest psychological point, and the interrogator must move quickly.

"STEP 5: PROCUREMENT AND RETENTION OF SUSPECT'S ATTENTION"

The interrogator cannot allow the suspect time alone or grant a request for a cigarette for fear of losing his dominant position, "...the time is now for the interrogator to move closer to the suspect..." (ibid, p 159). By reducing the psychological distance between them (by leaning forward, touching, using the suspect's first name or acquiring good eye contact), the suspect becomes more attentive to the interrogator's suggestions.

"STEP 6: HANDLING SUSPECT'S PASSIVE MOOD"

Displaying sympathy and understanding the time is now right for the interrogator to appeal to the suspect to tell the truth. It may be necessary to remind the suspect of the additional stress he is placing on the victim or other parties by not confessing. An appeal is made to the suspect's sense of decency, honour or religion if applicable. A suspect may cry at this point or remain silent with a blank stare, in which case they are ready for the next step.

"STEP 7: PRESENTING AN ALTERNATIVE QUESTION"

Here we return to a face-saving opportunity for the suspect by presenting a 'loaded' alternative question that contains an appealing

or more positive side, e.g., 'Did you plan this, or was it spontaneous?' or, '..was the money used to take care of some bills at home, or was it used to gamble?' Such questions can also be one sided, 'You are sorry about this, aren't you, ..?' (ibid, p 167). The timing is important and should catch the suspect by surprise, increasing the likelihood of a confession.

"STEP 8: HAVING SUSPECT ORALLY RELATE VARIOUS DETAILS OF THE OFFENCE"

Where the suspect has selected one of the alternatives in the previous step he will have made an incriminating admission. The objective is to develop this into a complete confession, including details of the offence and the motive and intentions of the suspect.

"STEP 9: CONVERTING AN ORAL CONFESSION INTO A WRITTEN CONFESSION"

Given the number of people that retract their confession at court, a written version is considered stronger than an oral one. The authors argue that it is more difficult to challenge a written version with a suspect's signature on it (they also outline their objections to the tape-recording of interviews).

There are many disturbing (unethical) features to this model, in particular its reliance on manipulative and deceptive techniques, but one of the main flaws concerns its manifest confidence in the behavioural analysis of the suspect. Prior to the interrogation they recommend a series of "non-accusatorial" questions and the officer is primed to be ever vigilant for signs of deception. Later at Step 3, for example, they note that innocent suspects' denials are spontaneous, forceful and direct, whilst guilty suspects are more evasive, qualified

and hesitant. Innocent suspects more commonly look the interrogator in the eye, and lean forward in the chair in a rigid and aggressive posture. This rather alarming reliance on non-verbal behaviour suffuses their work and disregards the considerable body of empirical evidence that refutes such recommendations (Ekman, 1985; Gudjonsson, 1992a).

Research in this area has established that most people perform no better than chance at predicting deception and that experienced police officers actually do not do as well as less experienced officers or university students. All that increases is the experienced officers' levels of confidence! (Moston, 1992). There is a considerable danger of a self-fulfilling element being imported into the police interview. If police officers assume a suspect is guilty (Moston, 1992), will this not also bias their detection of deception? Kraut (1980) found that suspicious observers interpreted a pause before an answer as indicative of guilt (preparing a lie), whereas a trusting observer saw this as indicative of an honest response (thinking, to provide a good answer). According to Inbau et al. "A delayed response,... usually reflects an attempt to contrive a false answer." (ibid, p 46). Despite the fact that this behavioural approach is based on experience, rather than reliable empirical data, the authors confidently justify their regime because of the value that can accrue; in other words, the ends justify the means.

The psychological principles at work in this model have been outlined by Brian Jayne, a Director at Reid Associates (Jayne, 1986). The model starts with the premise that people will want to avoid the consequences of their actions. They will be motivated to deceive, in order to avoid consequences that are 'real' or 'personal'. The former involves loss of freedom, the latter reduced self-esteem or loss of integrity. According to Jayne, therefore, "Psychologically, interrogation

can be thought of as the undoing of deception." (Inbau et al., 1986, p 327). Lying increases a person's internal anxiety and, as this level of anxiety increases, so the individual invokes two main defence mechanisms, 'rationalisation' (the offender justifies his actions) or 'projection' (where he attributes blame elsewhere). The optimum scenario to achieve a confession therefore, would be to decrease a person's perception of the (real or personal) consequences of confession and increase the (internal) anxiety associated with continued deception. To be successful in influencing the suspect's perception the interrogator must adhere to four essential principles:

1. Belief. The suspect must understand, or relate to what is being said. This will increase the likelihood that he will accept it and eventually internalise or believe what is being proposed.
2. Attitudes. The interrogator needs to attack the suspect's attitudes and weaknesses. For example, what consequences does he think he is avoiding, or what is his level of anxiety tolerance?
3. Information. The information provided by the interrogator must be perceived as credible.
4. Theme. Has the theme been accepted by the suspect? Is it time for an alternative perhaps?

B.A.I.T. (present author's interpretation) seems an appropriate mnemonic in this instance, as the authors recommend the use of 'baiting' questions "... to induce a deceptive suspect to change, or at least to consider changing, an earlier denial of guilt." (ibid, p 69). In practical terms, the model recommends employing the coping mechanisms of rationalisation and projection to reduce the suspect's perceptions in relation to the 'real' consequences of confession, and that sympathy and compassion are likely to be more effective at combating inhibitions relating to the 'personal' consequences.

The "Reid Model" advocates the psychological manipulation of the suspect and, where necessary, exaggerating the available evidence (real or imagined) to overcome any resistance. Such coercive tactics may be considered oppressive (s76(a)) or unreliable (s76(b)) under PACE. This model has also been presented as a 'maximisation' and 'minimisation' approach (Kassin and McNall, 1991). Briefly, it identifies the suspect's weaknesses, exposes them and manipulates the suspect by either maximising the strength of evidence (for non-emotional suspects) or, for remorseful suspects, using ploys that minimise the offence or the role of the suspect in it. This process fails to provide any safeguards for the less able suspect, yet such deceptive tactics continue to be sanctioned by the American legal system (Leo, 1992) and, according to a recent report, are still present in England and Wales despite the safeguards offered by PACE (Justice, 1994).

4. 5. OTHER THEORETICAL MODELS OF CONFESSION

From their review of the psychological literature, Hilgendorf and Irving (1981) provide a model which suggests that suspects become involved in a complex and often demanding decision making process. This relates to their perceptions of the options open to them, the consequences of selection and the gains (for self or other) that can be attached. The 'demanding' features of this process relate to the presence of a number of psychological, social and physical pressures, such as the ability of the police to manipulate the suspect's perception of the 'cost' associated with denial or acceptance. This is particularly the case where the suspect may have little or no knowledge of what is likely to happen and is therefore very dependent on the police as a source of information. Again we see how the thrust of the police questioning is designed to influence what the suspect believes will

happen at the time, rather than the objective reality. It is interesting that the authors suggest that this model is closely linked to the legal concept of voluntariness, a concept they later argued was untenable and inoperable. This theory is also posited on the assumption that the suspect is able to make, or capable of making, a demanding number of complex decisions.

Coping with feelings of guilt and the cathartic effect of confession, especially to a person in authority, are included in a number of psychoanalytic models offered by Reik (1959) and Berggren (1975). These models rely heavily on the work of Freud and his concepts of the Id, Ego and Super Ego, where the latter attempts to mediate between the other two factions. According to Reik, if the Super Ego remains silent (rather than continually trying to reconcile the Id and Ego), strong feelings of guilt develop and a compulsion to confess may arise. Whilst this model can account, in part, for relieving the suspect from a feeling of guilt, hence 'the need to get it off your chest', it does not begin to explain why many individuals often fail to make a confession and how others are able to insulate themselves from the need to confess.

Moston et al. (1992) have proposed a model that emphasises the interaction between a number of case and suspect related variables which can influence both the style of the interviewer and the response of the suspect. This model begins to account for a great deal of the 'baggage' that is imported into the interview scenario by all the participants and it is applicable regardless of a person's involvement in an offence. It emphasises the interaction effect of two main groups of factors, (i) background - type and severity of offence, age and sex of suspect with, (ii) contextual - legal advice, strength of evidence. Interviewing tactics are determined as a result of the interaction of

these two groups. This represents a particularly inter-personal and dynamic appreciation of what is taking place within the confines of the interview room and they note, "... it is important to distinguish between an initial and a final response.." as a suspect's responses can be altered by further questioning, depending on how the interviewing officers interpret the suspect's strategy. With this approach, the authors do not make the mistake of examining variables in isolation; rather, they focus on the way variables interact to produce either a confession or a denial. They found that the decision to confess was significantly influenced by the strength of evidence, offence severity, legal advice and the police station location.

Arguably, the most comprehensive model is the cognitive-behavioural approach put forward by Gudjonsson (1989b, 1992a) which focuses on the existence of a particular relationship between the suspect, the environment and significant others within that environment. The process involved is best understood in terms of two concepts or periods; the 'antecedents' and 'consequences' of a confession. Both encompass a series of events which are categorised as social, emotional, cognitive, situational and physiological. There are two major types of consequence, immediate and long term (see Table 4.1). The perceived immediate consequences of making a confession may be particularly powerful in eliciting a confession. This is essentially a descriptive model - in terms of how people are feeling or thinking at the time - although it also embraces many features of the other models. Its strength is that it focuses on the specific psychological components involved in the different modalities (e.g., cognitive, emotional, physiological).

Table 4. 1. The antecedents and consequences of confessions

ANTECEDENTS	CONSEQUENCES	
	Immediate	Long-term
Social: Isolation Police pressure	Police approval, praise	Disapproval
Emotional: Distress	Feelings of relief	Feelings of guilt, shame
Cognitive: "The police know I did it"	"It's good to get it off my chest"	"What is going to happen to me now?"
"The truth will come out in the end"	"My solicitor will sort it out"	"This is very serious"
"Perhaps I did do it, but I can't remember it"	"How could I have done such a dreadful thing?"	"I'm now certain I had nothing to do with it"
Situational: Nature of arrest Confinement? Solicitor present? Caution understood? Familiarity with police procedures?	Charged, allowed access to a solicitor	Judicial proceedings
Physiological: Aroused physical state, inhibitions reduced by alcohol or drugs; drug withdrawal	Arousal reduction	Arousal returns to base level

(taken from Gudjonsson, 1992a, p 67)

One of the most attractive features of the Gudjonsson Model is that it incorporates all of the essential concepts of the other models. For example, the corrupting influence and coercion recommended by the Reid Model can be adapted throughout. In terms of the emotional antecedents, the level of internal anxiety (distress) experienced by the suspect (precipitated by feelings of guilt) may be sufficient to motivate the person to confess, thus providing the feeling of relief described by Reik (1959). The Gudjonsson Model also discriminates between feelings

of guilt, which are likely to motivate a person to confess, and feelings of shame, which are likely to have the reverse effect.

The Reid Model is unashamedly concerned with breaking down the reluctant suspect and outlines a considerable number of questionable tactics that may be employed to achieve this aim. It is very much 'how' to achieve a confession and 'what' is required from the interviewing officers. Gudjonsson (1994a) highlights a number of fundamental issues concerning the integrity of police interviews and the deleterious effect on public confidence brought about police interviewing tactics that induce resentment, where coercive or manipulative tactics are employed. The Reid Model, on the other hand, is posited on principles that do not readily allow themselves to be subjected to rigorous empirical examination and it can only account for 'why' some people confess in a rather small proportion of cases. In comparison the interactive model proposed by Moston et al. (1992) introduces a sound analytic approach to determine 'what' it is that is associated with the confessions obtained in their large study. A more general criticism of this model is that it has been formulated on the basis of official documentation and self-report measures, without seeking to elicit the perceptions of the suspect.

In most of the models discussed the focus is almost exclusively on the process that takes place within the interview situation rather than what may have taken place beforehand. Given the number of confessions that occur at the very beginning of a police interview (Baldwin, 1993; Moston et al., 1992; Pearse and Gudjonsson, 1996a) and the corrupting influence of 'informal' police interviews prior to the audio-taping process (Moston and Stephenson, 1993b; Justice, 1994) this decision making capacity ought to be reflected within the framework of any

substantive model. The Gudjonsson Model succeeds in this respect and also captures the affective nature of the suspect's perceptions of the process. It also provides the capacity to cater for any cognitive element, such as bargaining strategies that the suspect might employ. It is this, almost evolutionary notion of 'what is this going to cost me?' or 'what's in it for me?', that is missing from some of the other models.

More recently, Ofshe and Leo (1997) have applied the concepts of the 'antecedents' and 'consequences' (the before and after) approach to distinguish between "... the guilty and the innocent..." (ibid p 197). Dividing the police interview in two stages, the pre-admission phase and the post-admission narrative, these authors suggest that,

"Although indicators of a suspect's true state of innocence or guilt can be identified in the suspect's conduct in response to the interrogator's tactics, the differences between the guilty and the innocent *only become reliably and objectively observable* after each has made the decision to confess. The differences can only be detected with substantial confidence by analyzing the *contents* of their respective confession statements -"

(ibid, p 197, original emphasis).

The forthright nature of their proposed hypothesis deserves to be investigated.

The models discussed have succeeded in generating a number of testable hypotheses, in particular in relation to the perceptions of individual suspects. Talking to convicted offenders about why they made a confession to the police has highlighted the importance of individual differences in attitude and personality. In other words, whilst suspects are likely to confess as a result of a combination of factors, for

each suspect one group of factors is likely to dominate, reflecting the individual's perception of the strength of the evidence against him (Gudjonsson and Petursson, 1991; Gudjonsson and Bownes, 1992). Sigurdson and Gudjonsson (1994, 1996a, b) have proposed that the decision making process can be conceptualised as a number of facilitative and inhibitory factors. This categorisation emerged from a factor analysis of the responses from 404 convicted prisoners who completed the Gudjonsson Confession Questionnaire. The facilitating category has three factors: (1) external pressure (confinement, police pressure), (2) internal pressure (guilt, need to relieve distress or anxiety) and (3) perception of proof (strength of evidence). Two classic examples of the situational pressures that suspects find themselves under emerged from this research. The question 'Did you confess because you were frightened of being locked up?' loaded saliently on factor one and the question, 'Did you feel you wanted to get it off your chest?' loaded saliently on factor two (ibid, 1996b, p 262). Inhibitory factors are those that make it difficult for suspects to confess and are associated with feelings of shame and a fear of the consequences.

The next part of this thesis will report on the results of a study undertaken for The Royal Commission on Criminal Justice (Runciman, 1993) where, for the first time, suspects were assessed psychologically prior to being interviewed by the police. The purpose of this study was to examine the difficulties surrounding the identification of psychological vulnerabilities, and to investigate how relevant such characteristics and the presence of other parties were to the confession process, especially in relation to mentally vulnerable suspects.

**POLICE INTERVIEWING: AN EXAMINATION OF
SOME OF THE PSYCHOLOGICAL, INTERROGATIVE
AND BACKGROUND FACTORS THAT ARE
ASSOCIATED WITH A SUSPECT'S CONFESSION**

PART TWO - A DEDICATION

**FOR A NUMBER OF YEARS I HAVE BEEN
EXCEPTIONALLY FORTUNATE TO ENJOY THE
GUIDING HAND OF GISLI GUDJONSSON. AS A
RELATIVELY YOUNG MAN, HE IS BLESSED WITH
BOTH WISDOM AND INTELLIGENCE. A RARE
COMBINATION. I NEED SAY NO MORE.**

PART TWO - THE 1993 ROYAL COMMISSION STUDY

INTRODUCTION

This part of the thesis will elaborate upon the results of a field study originally undertaken on behalf of the Royal Commission on Criminal Justice (Runciman, 1993; Gudjonsson, Clare, Rutter and Pearce, 1993). In the following five chapters I will examine and discuss the findings that are relevant to:

- the identification of psychological vulnerabilities,
- the nature and frequency of police interviewing tactics,
- issues concerning police interviewing and legal representation,
- the role and performance of the appropriate adult (AA), and
- factors associated with predicting the likelihood of a confession.

Chapter Five will provide 'base line' data for the remaining chapters in this part of the thesis. The information was obtained from a brief clinical interview and a series of psychological tests with all participating adult suspects. It was anticipated that these findings would provide valuable information in relation to the performance and behaviour of the suspects in the subsequent police interview. There were two other related aims. The first was an opportunity to determine the size of the police suspect population (in that part of London) that might be considered psychologically vulnerable or 'at risk', and secondly, to discover how readily suspects' intellectual deficits could be identified by observation. Whilst the results outlined in Chapter Five reflect a joint effort on the part of all four researchers, the participation of the present author did not include conducting clinical interviews or administering psychometric tests. The remainder of this thesis largely reflects the contribution of the present author.

In Chapter Six, an examination of the type and frequency of interview tactics employed by police officers will be reported, and the nature of the role of legal advisers and their contribution to the police interview comes under scrutiny in Chapter Seven. In Chapter Eight, the results of an examination of the performance of the AA will be outlined. Utilising those cases where an AA was present in the interview, the question under investigation was whether the AA adopted the active role envisaged under the Codes. The final chapter enlists a number of statistical techniques to draw together the explanatory variables relevant to the outcome of the interview, and a model is proposed that helps to predict the likelihood of a confession from within this data set. All the findings and related issues from this stage of the research have been disseminated and published (or accepted for publication) in nine, peer-refereed scientific publications (for information, a list of these articles is attached at Appendix One, pages A1/1 - 4 refer).

CHAPTER FIVE

PSYCHOLOGICAL VULNERABILITIES OF SUSPECTS DETAINED AT PECKHAM AND ORPINGTON POLICE STATIONS

5. 1. INTRODUCTION

The first stage of this research was supported and partially funded by the Royal Commission on Criminal Justice (Runciman, 1993) and has been published as their Research Study No. 12 (Gudjonsson et al., 1993). Accordingly, I do not propose to reproduce the entire contents of this publication, but there are a number of salient features that need to be covered in order to provide an adequate foundation for the remainder of the thesis.

One of the aims of this research was try and ascertain how many people are thought to be psychologically vulnerable, or 'at risk', within the police suspect population, and therefore likely to need the additional protection of an AA. In Irving's first observational study (1980) 25 suspects (42%, N= 60) were judged to be in some way mentally disturbed during the police interview. During the replication studies in 1986 and 1987 (Irving and McKenzie, 1989) the number of suspects judged to be in an 'abnormal' mental state fell to 21 (31%, N=68) and 9 (13%, N=68) respectively. One reason to account for this decrease was that with the introduction of PACE fewer suspects were being interviewed who were clearly under the influence of alcohol. However, for the total 196 subjects in the three studies only one (0.5%) was judged to be of low I. Q. or mentally handicapped.

As was noted in Chapter Three, the number of adult suspects who actually receive the services of an AA is often less than a half of one per cent, despite figures that suggest that two in every 100 individuals in the general population function intellectually in the learning disability range (i.e., with an I. Q. level between 50 - 70; Department of Health, 1994). Such findings continue to support the suggestion that vulnerable suspects entering the criminal justice process are not being identified. A worrying corollary suggests that they may not understand their entitlements or receive all their legal safeguards. The first objective of this study, therefore, was to monitor those characteristics thought to be relevant to the potential vulnerabilities of suspects to provide unreliable or misleading information to the police during the interview. These included:

- current mental state,
- intellectual functioning,
- reading ability,
- interrogative suggestibility,
- anxiety proneness, and
- the suspects' understanding of their legal rights.

Another aim was to determine how readily suspects' intellectual deficits could be identified by observation, prior to formal psychometric testing. It was hypothesised in this instance that many intellectually disadvantaged suspects (i.e., those with I. Q. scores below 70) possess handicaps that are not readily detected without formal testing, even by experienced clinicians.

5. 2. METHODOLOGY

Two South London police stations, Orpington and Peckham, were selected for this study on the basis of their accessibility, suitable working

environment and diverse suspect population. The field work was undertaken between December 1991 and April 1992 and there were three main criteria for selecting suspects:

- the suspect was to be interviewed on audio-tape for a criminal offence,
- the suspect was not obviously so intoxicated, disturbed or violent that it would be impractical to conduct the assessment, and
- no juveniles (under 17 years) were selected as they have an automatic entitlement to an AA.

On arrival at the station, a clinical psychologist would consult with the Custody Officer about those prisoners already detained.

Subjects

All adult suspects arrested at Peckham and Orpington Police Stations who, it was anticipated, would be interviewed on audio-tape by the police for an alleged criminal offence, were eligible to participate. 197 suspects were approached, 24 (14%) of whom refused. All the refusals were male and there was a markedly higher rate in Peckham (17%) than Orpington (7%). A further 13 suspects either had their assessment interrupted or for some operational police reason were not eventually interviewed. 160 psychological assessments were carried out, but in some circumstances (interruptions by police, refusals to continue by the suspect or because of language difficulties), it was not possible to complete each of the tests, with the result that for some variables not all cases could be included in the final analysis. These initial difficulties account for the different totals given for some of the results provided later in this thesis. The majority of the eventual sample were male (84%) with a mean age of 28 years (Standard deviation [SD] 10.4). The average age of males and females was very similar at 28 and 29 years, respectively.

The clinical interview and psychometric tests

Experience had shown that suspects typically waited between one and three hours before being interviewed. It was this period that the psychologists sought to utilise for the purpose of their assessment. Having been processed by the Custody Officer on their arrival at the police station, adult suspects were invited to participate on a voluntary basis and signed a consent form to this effect. It was stipulated on this form, and discussed at the outset, that the clinician was (i) not associated with the police, and (ii) that it would not be possible to discuss the alleged offence for which the suspect was being detained. A specially designed interview schedule was developed to obtain information in relation to: (1) occupational, educational and medical background; (2) previous convictions and imprisonment; (3) understanding of legal rights; (4) mental state (over the previous 7 days); (5) alcohol and illicit drug use (over the previous 24 hrs); and (6) clinical impressions of suspect formed during assessment. At the conclusion of this clinical interview an assessment as to the perceived need for an AA was made.

Relevant sections from four psychological tests were then administered. These were: (1) Gudjonsson Suggestibility Scale (GSS 2; Gudjonsson, 1987); (2) Wechsler Adult Intelligence Scale (WAIS-R; Wechsler, 1981); (3) Schonell Graded Word Reading Test (Schonell and Goodacre, 1974); and (4) State - Trait Anxiety Inventory (Form Y; Spielberger, Gorsuch and Lushene, 1970). In order not to delay unnecessarily the suspect's detention period, it was decided to select only three out of the eleven sub-tests in the WAIS-R and prorate the respective I. Q. scores. A very high inter-rater reliability had already been established in relation to the GSS 2, for the three clinical

researchers in this study (Clare, Gudjonsson, Rutter and Cross, 1994) and all three were very experienced in administering these types of tests and schedules. For information, the complete interview protocol is reproduced in Appendix One, pages A1/5 - 8 refer. For a more detailed account of the psychometric tests employed, the reader is advised to consult Gudjonsson et al. (1993, pp 6, 7, 37 and 38).

5. 3. RESULTS

Throughout Part Two of this thesis, Chi-square tests were employed to test for differences between the two stations (or any two groups) where categoric or nominal data was present and all used Yates' correction for continuity (Howell, 1987). In relation to continuous data, such as the results of the suggestibility tests or for age, an independent t-test was employed to determine whether there was any significant difference in the mean scores of the two groups. Given the reduced sample size in Part Three, the non-parametric equivalent of these tests were employed, e.g., Fisher Exact and Mann-Whitney, respectively.

Type of offences alleged

Table 5. 1. shows the offences alleged in relation to all those suspects that originally agreed to participate in the study.

Table 5. 1. Type of offences alleged (N = 173)

Type of offence	Peckham (N=118)	Orpington (N=55)	Combined (N=173)
Homicide	1 (<1%)	0	1 (<1%)
Violence (ABH, GBH)	17 (14%)	5 (9%)	22 (13%)
Property offences	68 (58%)	34 (62%)	102 (59%)
Sexual offences	4 (3%)	0	4 (2%)
Criminal Damage	1 (<1%)	2 (4%)	3 (2%)
Motor vehicle	3 (3%)	0	3 (2%)
Drug offences	13 (11%)	5 (9%)	18 (10%)
Taking & driving away	6 (5%)	5 (9%)	11 (6%)
Other	5 (4%)	4 (7%)	9 (5%)

Property offences (theft, burglary) accounted for nearly 60 per cent of the total, followed by violence (13%) and drug offences (10%). There were no significant differences between the stations.

Background variables

Table 5. 2. details the responses given by the suspects in relation to a variety of questions concerning their antecedents and lifestyle. The object of asking the suspects questions in relation to employment and qualifications was primarily designed to establish some notion of rapport with the individual before catering for the more sensitive issues (such as previous convictions or medical history). The remaining issues were thought to be relevant to the suspect's ability to cope with confinement and the interview situation.

Table 5. 2. Background variables

Antecedents	Peckham (N=118)	Orpington (N=55)	Combined (N=173)
Previous convictions	80 (68%)	41 (74%)	121 (70%)
Unemployed	76 (64%)	44 (80%)	120 (69%)
Qualifications	58 (49%)	20 (36%)	78 (45%)
Served prison sentence	38 (32%)	23 (42%)	61 (35%)
Alcohol consumed	39 (33%)	17 (31%)	56 (32%)
Illicit drugs taken	25 (21%)	12 (22%)	37 (21%)
Suffers from epilepsy	2 (2%)	0	2 (1%)
Suffers nerves/depression	12 (10%)	7 (13%)	19 (11%)
Suffers from diabetes	1 (1%)	2 (4%)	3 (2%)
Suffers heart problems	0	1 (2%)	1 (<1%)
Treated in hospital	3 (3%)	4 (7%)	7 (4%)
Treated by medication	22 (19%)	8 (15%)	30 (17%)

70 per cent (121) admitted to having previous convictions, although many could not be precise about the exact number. According to their responses, the number of convictions ranged from one to 46 with

a mean of 4 (SD 6.5). Over one third (35%) said they had served a prison sentence or period on remand in custody. A large majority also claimed to be unemployed (69%). 19 suspects (11%) claimed to have suffered from a nervous disorder and/or depression during the previous year. Very few had sought treatment, the majority suggesting their condition was not serious enough. Only four per cent claimed to have been hospitalised for a medical or psychiatric condition and 30 suspects (17%) said they were being treated by medication on an out-patient basis. One third claimed to have consumed alcohol in the previous 24 hours before their arrest and 37 (21%) admitted taking illicit drugs (non-prescribed) within the same period. The consumption of alcohol amounted to a few beers before the arrest and the drug consumption was mainly smoking cannabis, taking heroin or methadone.

Suspects' mental state prior to arrest

In Table 5. 3. items were only endorsed if there was a clear indication from the suspects' replies that these 'problems' were present.

Table 5. 3. Suspects' mental state prior to arrest

Type of problem	Peckham (N=116)	Orpington (N=55)	Combined (N=171)
Hearing voices	1 (1%)	1 (2%)	2 (1%)
Sleep disturbance	40 (35%)	25 (46%)	65 (38%)
Loss of appetite	23 (20%)	12 (22%)	35 (21%)
Crying more than usual	17 (14%)	13 (24%)	30 (18%)
Feeling low in mood	44 (38%)	30 (55%)	74 (43%)
Feeling suicidal	7 (6%)	9 (16%)	16 (9%)
Feeling paranoid	17 (15%)	16 (29%)	33 (19%)

Whilst no suspect reported having experienced all seven symptoms, 30 suspects (17%) reported experiencing four or more. The most common symptom was feeling low in mood. This was often explained by the

suspects to be associated with having no job, no money and no sense of purpose. Low mood correlated significantly with reports of sleep disturbance ($r = 0.55, p < 0.001$), crying ($r = 0.46, p < 0.001$), loss of appetite ($r = 0.39, p < 0.001$) and suicidal ideas ($r = 0.21, p < 0.05$). Several of the suspects said they had been feeling seriously suicidal in the few days prior to their arrest. After the initial interview a clinical evaluation was made of each suspect by the researcher. 21 (12%) were clearly highly agitated and 12 (7%) were judged to be mentally ill (mainly schizophrenia and depression). A further 12 suspects appeared to be under the influence of drugs and five (3%) showed clear evidence of mental handicap.

The use of the appropriate adult (AA)

Table 5. 4. provides details of the number of cases where the researchers decided there was a need for an AA, together with the reasons for those recommendations. Details are also provided of where the police called a forensic medical examiner (FME).

Table 5. 4. The clinicians' perceived need for an appropriate adult, prior to psychological testing

Reasons for recommendation	Peckham (N=110)	Orpington (N=53)	Combined (N=163)
Mental illness	8 (7%)	4 (8%)	12 (7%)
Mental handicap	2 (2%)	2 (4%)	4 (3%)
Language problems	2 (2%)	1 (2%)	3 (2%)
Illiteracy claimed	2 (2%)	3 (6%)	5 (3%)
Brain damage	1 (1%)	0	1 (<1%)
Total recommended need for AA	15 (14%)	10 (9%)	25 (15%)
No. AAs called by police	5 (5%)	2 (4%)	7 (4%)
No. FMEs called prior to interview	19 (17%)	7 (13%)	26 (16%)

The most immediate disparity evident from this table is the difference between the 25 cases (15%) where an AA was recommended by the

researchers, on the basis of their clinical interview, and the seven (4%) called by the police. However, it is true to say that the police were able to detect the most vulnerable suspects. There is some indication that the police made full use of the FME, calling one in 26 cases (16%) where they suspected or were aware of mainly physical medical complaints.

Understanding of legal rights

All suspects were asked to list the rights to which they were entitled whilst detained at the police station and then asked to complete a short questionnaire (for full details of this questionnaire see Appendix One, pages 5 - 8 refer). The results are shown in Table 5. 5.

Table 5. 5. Suspects' understanding of their legal rights

	Peckham (N=116)	Orpington (N=55)	Combined (N=171)
Given legal rights	95 (82%)	51 (93%)	146 (85%)
In possession of notice	39 (34%)	34 (62%)	73 (43%)
Read the notice	30 (26%)	26 (47%)	56 (33%)
Rights detainees recalled:			
1. Access to a solicitor	89 (77%)	50 (91%)	139 (81%)
2. Informing relatives	80 (70%)	33 (60%)	113 (66%)
3. Access to the Codes	20 (17%)	9 (16%)	29 (17%)
4. Access to custody record	1 (<1%)	1 (2%)	2 (1%)
5. Other rights	30 (26%)	17 (31%)	47 (28%)
Questions on rights:			
1. Right to silence	90 (78%)	47 (85%)	137 (80%)
2. Can be used against you	103 (89%)	54 (98%)	157 (92%)
3. Only need solicitor if innocent	94 (82%)	47 (85%)	141 (83%)
4. Legal advice is free	109 (95%)	51 (93%)	160 (93%)
5. Police inform relatives	105 (91%)	50 (91%)	155 (91%)
6. Contacting relative is free	115 (99%)	54 (98%)	169 (99%)
7. Don't have to tell the truth	50 (44%)	27 (49%)	77 (45%)
8. Can change his/her mind	97 (84%)	47 (85%)	144 (84%)

The results suggest that the majority understood their basic legal rights, e.g., the right to free legal advice. A minority (15%) claimed that their rights had not been given by the Custody Officer. As the researchers were often not present for this exchange it is not possible to know how accurately this reflects the true position. It was evident, from limited observation, that not all suspects were handed the Notice to Detained Persons. There were also instances when it was handed over but the suspect did not bother to pick it up off the desk. Only 73 (43%) of suspects had the Notice with them when seen by the researcher. Many of those that were given the Notice did not bother to read it. Question seven on the legal rights questionnaire ('If you say anything to the police, do you have to tell them the truth?') proved difficult for a number of suspects because of the way it was worded. Suspects appeared to confuse the moral and legal aspects posed by the question. That is, those that answered that they had to tell the truth appeared to be influenced by what they thought was morally correct rather than by their (lack of) understanding of the law.

Results from psychological testing

Table 5. 6. provides the results from the four psychometric tests under their individual headings.

Table 5. 6. The mean and standard deviation scores from the psychological tests

Test	Peckham (N=105)		Orpington (N=55)		Combined (N=156)	
	Mean	S.D.	Mean	S.D.	Mean	S.D.
I. Q. Test						
Full scale I. Q.	82	15	81	10	82	14
Verbal I. Q.	83	15	82	9	83	14
Performance I. Q.	84	20	81	14	83	19
Reading test						
Raw score	74	20	74	21	74	20
Anxiety Test						
Trait anxiety	44.0	11.8	40.5	12.2	42.9	12.0
State anxiety	53.2	14.0	54.4	12.5	53.6	13.5
Suggestibility Test						
Immediate recall	11.3	6.3	12.5	6.5	11.6	6.4
Delayed recall	10.2	6.5	11.3	6.1	10.5	6.4
Yield	6.2	3.8	4.6	3.2	5.6	3.7
Shift	5.6	9.3	3.6	3.9	4.3	3.5
Total suggestibility	11.6	9.2	7.9	5.7	10.0	6.0

Intellectual ability

There were no significant differences in I. Q. scores between the two stations, with average scores falling at the bottom of the 'low average' range i.e., on average the bottom 15 per cent of the general population ($t = 1.48$, $df = 137.2$). There was, however, a large range of scores, with prorated FSIQ ranging from 61 to 131. An examination of the scores at the lower end of the scale suggests that, even allowing for the unfavourable test conditions, a large number of the detainees suffer from a significant intellectual impairment. In more specific terms: 14 (8.6%) of the total sample had a FSIQ score below 70 (i.e., bottom 2 per cent of the general population); about one third (33.7%) had an I. Q. score of 75 or below (i.e., bottom 5 per cent of the general population); 68 (42%) suspects had a Full Scale I. Q. score in the 'borderline' range (i.e., I. Q. score between 70 and 79).

Reading ability

Again there was no significant difference between the two stations ($t = -.01$, $df = 99.37$). Both stations had a mean score of 74, which converts to an average reading age of 11 years 8 months. At the lowest end of the scale 11 suspects (7%) had scores below 43, equivalent to a reading age of 9 years which would allow for a classification of functional illiteracy in the United Kingdom. In this study reading ability did not prove to be a good indicator of low I. Q. score. For example, only five (45%) of the 11 illiterate suspects had a prorated FSIQ score below 75 and only one (9%) had a score below 70. On the other hand, nine of the suspects with a reading age above 9 years had prorated FSIQ scores of below 70. The reason is that reading ability is not a direct function of intellectual ability and is therefore a poor indicator of an intellectual deficit (Gudjonsson et al., 1993)

Trait and State Anxiety

State anxiety was significantly higher, overall, than trait anxiety ($t = 9.1$, $p < 0.001$), as one might predict. This suggests that the suspects reported feeling more stressed whilst detained at the station than usual. There were no significant differences between the stations (State: $t = -.69$, $df = 114.47$, trait: $t = 1.84$, $df = 101.06$). Despite this somewhat predictable finding, some 25 suspects (16%) had markedly lower state than trait anxiety scores, which implies that they were less stressed at the police station than in their everyday circumstances. One possible reason for this may lie in the 'therapeutic' opportunity presented by the clinical interview. Many suspects reported that the assessment took their mind off their current predicament and provided some relief, leaving them feeling more relaxed. This means that the relatively high state anxiety score may in fact have even been suppressed because of this relaxing influence. There was considerable variation amongst individual state

anxiety scores. Many suspects rated detention as highly stressful; 31 suspects (19%) scored above 65, which falls at the 95th percentile mark for prison inmates (Spielberger, Gorsuch and Lushene, 1970). Despite this, some six suspects (4%) scored below 30, or in the 6th percentile rank for prison inmates (Speilberger et al, 1970).

Interrogative suggestibility

In terms of memory scores (both immediate and delayed) there were no significant differences between the two stations (Immediate: $t = -1.46$, $df = 104.4$, delayed: $t = -1.30$, $df = 108.64$). Although both groups had scores which fell well below those of normal subjects, they were similar to those found in other forensic populations (Gudjonsson, 1992a). Significant differences were evident, however, between the stations in terms of suggestibility (Yield, Shift and Total Suggestibility). One reason for this is that suspects of Afro-Caribbean origin (who were over-represented at Peckham) were significantly more suggestible than their Caucasian counterparts, see Table 5. 7. below. The underlying reasons for this finding are unclear and will require more detailed and extensive research to be carried out.

Table 5. 7. Differences in suggestibility scores between Caucasian and Afro-Caribbean suspects

	Caucasian (N=118)		Afro-Caribbean (N=40)		
Suggestibility	Mean	S.D.	Mean	S.D.	t - value
Yield Score	5.2	3.4	7.4	4.1	-3.30**
Shift Score	4.0	3.2	5.4	3.5	-2.32*
Total	9.1	5.6	12.8	6.2	-3.49**

* $p < 0.05$, two-tailed test. ** $p < 0.005$, two-tailed test.

The suggestibility scores are above those normally found in the general population, but they are not dissimilar to other forensic populations (Gudjonsson, 1992a). It is thought that the higher suggestibility scores

noted in this and previous studies, composed of a similar forensic or psychiatric population, may be due to their impaired intellectual and memory functions, which makes them more vulnerable to suggestions. Unfortunately, it is not always as simple as that and this study provides a suitable reminder of some of the complexities and interactions that need to be considered. In this study, the FSIQ scores correlated poorly with all three suggestibility scores. This is because some of those suspects with very low I. Q. scores were not suggestible, whereas, other more able suspects were highly suggestible. The implication being that levels of suggestibility cannot be based on I. Q. scores alone.

5. 4. DISCUSSION

The main purpose of this part of the study was to provide some insight into the psychological characteristics and vulnerabilities of the suspects detained at the two stations. Perhaps the most striking finding was the low I.Q. scores of many of the suspects. In the first place, almost nine per cent had an I.Q. score below 70, with about one third of the sample capable of being classified as intellectually disadvantaged. Secondly, about 20 per cent of the suspects reported a state anxiety level outside the normal range, indicating that for many suspects being detained at a police station is a highly stressful experience. Despite this high anxiety many suspects were not found to be unduly suggestible. Thirdly, about seven per cent of the suspects were thought to be suffering from a major mental illness, such as schizophrenia or depression. In many of these cases such a diagnosis might have been missed without the clinical interview. Finally, about two thirds of the suspects had previous convictions and most understood their basic legal rights, such as the right to free legal advice and the right to silence.

As this was the first study that set out to identify possible psychological vulnerabilities within a suspect population and to relate these findings to the suspect's subsequent performance in the police interview, the researchers' initial decision to recommend the need for an AA (and thus attach the label 'vulnerable') merits further discussion. The time constraints imposed by PACE and the sometimes hectic environment of a busy inner city police station did not always present 'ideal' test conditions. The final decision in relation to the question of vulnerability was made by the researcher after they had spent between 10-15 minutes with the suspect and the item was only positively endorsed if there was clear and definite evidence of the behaviour or mental characteristic. Such a stringent criterion was necessary to reduce the number of false positive errors even though this may have produced some false negative errors.

It was anticipated at the time of the Royal Commission publication in 1993, that the final figure of 25 vulnerable suspects (15%) from the clinical interview (see Table 5. 4.), would represent an under-estimation of the actual population, given the likelihood that the full extent of each suspect's intellectual deficits would not always be apparent from a brief clinical assessment. It was estimated that when the findings of the psychometric tests were taken into account, the final figure would be above 20 per cent. An examination of the FSIQ results reveals that there were actually nine cases where a suspect's I. Q. was below 70 (and thus likely to be entitled to an AA under PACE) that were not identified from the clinical interview as vulnerable. A more realistic figure therefore, amounts to 34 suspects (21%) who were considered vulnerable and in need of an AA in this study. Such findings confirm the belief that, even for experienced clinicians, the identification of

vulnerability within the criminal justice system, and in particular the identification of intellectual deficits, is a particularly complex issue.

The results also serve to highlight the difficulties confronting untrained police officers tasked with the identification of psychological vulnerabilities. In terms of police performance however, it was noted that an AA was summoned in 4 per cent of the cases, which is a considerable increase on all previous studies (where the figures were often less than a half of one per cent - Williamson, 1990; Brown et al., 1992; Bean and Nemitz, 1994; Robertson et al., 1996). It is possible therefore, that the presence of the researchers in the custody area and the widespread knowledge of the purpose of this study amongst the staff at the two police stations, may have influenced the judgement of the Custody Officers in this regard. The 'Hawthorne Effect', a distortion in normal behaviour that occurs when people know they are the subject of a study, is a well documented phenomenon (Roethlisberger and Dickson, 1939; Manstead and Semin, 1988) and this issue will be discussed further in Chapters Seven and Eight.

This study has considerably extended the earlier observational findings of Irving (1980) and may be regarded as the first 'hard' data to emerge in this field. The extent to which the findings are representative of other police stations or other regions is less clear. Gudjonsson et al. (1993) suggest that the results "... should only be viewed as a reasonable indication of the psychological and mental state characteristics of the detainees prior to their being interviewed. " (ibid, p 23).

Having established a 'base-line' the question that needs to be addressed is the extent to which the characteristics and vulnerabilities

identified, are relevant to the suspect's performance and behaviour in the police interview? In the following chapter the impact of the nature and frequency of police interviewing tactics will be examined.

CHAPTER SIX

POLICE INTERVIEWING TACTICS AT PECKHAM AND ORPINGTON POLICE STATIONS

6. 1. INTRODUCTION

This chapter will examine:

- the type and number of tactics employed by the police,
- the result of the interview, and
- the eventual outcome of the case.

The potency of police interviewing tactics in eliciting a confession and the likelihood that improper tactics will often raise important legal questions surrounding the admissibility, reliability and fairness of subsequent confessions were discussed in Part One of this thesis.

Obtaining a confession represents a prosecutor's most cogent weapon (Kassin, 1997) and police officers have been accused of resorting to all forms of coercive and manipulative behaviour to secure this aim (Leo, 1992; Justice, 1994). McConville et al. (1991), in support of their hypothesis concerning the 'social construction' of evidence, argue that:

"The principle forum for case construction is the *interrogation* and, though there is an increasing presence of third parties such as solicitors, parents and social workers, these interactions are very much under police control." (ibid, p 65, original emphasis).

The introduction of PACE, however, and especially the advent of the audio-taping of the interview, has introduced a certain transparency

to this once secret encounter. Subsequent research has raised questions over the competency of a substantial proportion of police interviewing and has failed to detect the widespread use of malevolent police tactics evident pre-PACE (Irving, 1980; Softley, 1980; Williamson, 1990; Moston et al., 1992; Baldwin, 1992a, 1993). A new national police interviewing model has been developed which advocates a distinct shift in the emphasis of the interview, away from extracting a confession towards a search, or inquiry, for the truth (CPTU, 1992a, b; Williamson, 1994). Unfortunately, this national training model had not been fully implemented at the time of this study and it is not possible to know how many officers had been trained under the new scheme. The advent of such training however, may account for the finding of a very recent study that noted:

"The purpose of interviewing was often to provide detainees with an opportunity to give their account of an incident rather than to acquire information which would be of evidential value in the prosecution of a case."
(Robertson et al., 1996, p 299).

There are a number of hypotheses generated by previous research. These include:

- (i) audio-taped interviews would tend to be shorter than pre-PACE, non taped interviews (Irving and McKenzie, 1989),
- (ii) pre-PACE manipulative techniques would not be common (Baldwin, 1992a, 1993),
- (iii) the number of tactics employed by police officers would be fewer than pre-PACE studies (Irving and McKenzie, 1989; Baldwin, 1992a, 1993; Moston et al., 1992), and
- (iv) the number of confessions or admissions made would be similar to pre-PACE studies (Moston and Stephenson, 1993a).

6. 2. METHODOLOGY

Subjects and Procedure

In relation to this section of the study 161 complete interviews with suspects were analysed. There were 135 male interviewees (84%) and 26 (16%) female. After the police interview had taken place, a copy was made of the audio-tape(s) of the interview(s) and these were analysed using a specially constructed coding frame. This coding frame catered for 39 variables including the personal and administrative details of the suspect, third party involvement, the interview tactics adopted, suspects' reactions, as well as the legal protocol and timing for each interview. The construction of the coding frame was influenced by the earlier research and a number of the models outlined in Part One of this thesis (a copy of this coding frame is attached at Appendix One, pages A1/9 - 11 for information). The results of the cases were later obtained from police records.

Some methodological considerations

Whilst the tape recording of police-suspect interviews has allowed us an insight into this once covert domain, it is specifically an audio 'insight', not a visual one. This is seen by some as the less preferred modality of research, in both psychology and medicine (Farr, 1982). Additionally, we cannot assume that it necessarily provides a complete picture. For example, the significance of events leading up to arrest and the powerful dynamics of detention cannot always be accurately assessed by listening to an audio-tape of an interview that may well be less than ten minutes duration. Concern has also been expressed as to the extent and influence of 'unofficial' interviews prior to the police station interview (Moston and Stephenson, 1993b; Gudjonsson and MacKeith, 1994; Gudjonsson, 1995b). Such considerations may of

course be more acute for juveniles (Evans, 1993a), or mentally disordered offenders (Gudjonsson, 1992a; Pearse, 1995).

It is also crucial to bear in mind the inherently social nature of the interaction taking place between at least two, and often three or more individuals (Farr, 1982). Such a combination contributes to a continuous and frequent exchange of perspectives, sometimes in a charged and highly emotional environment, where the consequences of a suspect's replies can assume considerable importance, perhaps loss of liberty. There will be occasions when attempting to reduce such dialogue onto a simple coding frame will strain the rigorous requirements of empirical testing.

Efforts to produce valid, objective reports from the subjective interpretation of data are further compounded when one considers that the opinions and assessment of one researcher may not be seen in the same light by a fellow researcher, or for that matter, a solicitor or police officer. Achieving some degree of validity is therefore often extremely difficult. A quandary eloquently summarised by Baldwin (1993), who noted:

"It would be extravagant to claim that the assessments made were objective or scientific. The qualities and behaviours being evaluated defy rigorous measurement."
(ibid, p 229).

The presence or absence of a variable was recorded and initially a third, intermediate, classification (i.e., 'to some degree') was included in the design. This, however, proved unmanageable when faced with the categoric demand that the tactic or reaction either was, or was not, present. Accordingly, this third classification was amalgamated

with the negative responses (i.e., not present). Such decisions exemplify the quandary for researchers striving to produce objective reports from the subjective interpretation of data. These issues also limit the extent to which it is possible to compare such studies with one another and in assessing how representative this study might be of police interviewing techniques in general.

Coding dilemmas need not be confined to categoric responses; often, the question of the extent to which a variable is present is important. The subtle distinction between a confession and an admission serves as a useful case in point. In this study, legal issues such as intent (*mens rea*) and guilty action (*actus reus*) were employed to help disentangle inherent semantic complexities. There were five categories for this one variable: a 'full' or 'partial' confession, a 'full' or 'partial' admission, and finally 'no confession'. Using an allegation of assault as an example, a 'full confession' amounts to accepting responsibility for hitting another person, intending to cause injury. A 'partial confession' entails admitting to attacking another person but not intending to cause such extensive injuries. A 'full admission' on the other hand will represent an admission to the physical contact but lacks the intent to cause injury, e.g., acting in self-defence. A 'partial admission' will include being present at the scene, perhaps engaging in an argument with the victim but will be devoid of any admission with regard to intent. Finally, 'no confession' relates to where a suspect resolutely denies all aspects of the allegations made against him or invokes his right to silence.

Two tests were undertaken to examine test re-test reliability and inter-rater reliability. In relation to the former, a random selection of 30 cases were subjected to a further analysis by the author after a period of six

months had elapsed. A substantial agreement was found between the two data sets using the 'Kappa' coefficient test (Dunn and Everitt, 1995). The extent of the agreement found between the suspect's reactions ranged from 0.714 - 0.923 and the agreement for the type of tactics employed ranged from 0.862 - 0.911, providing an overall mean of 0.86 for all relevant variables. In an attempt to measure inter-rater reliability, the present author's supervisor independently completed an assessment of suspects' reactions and tactics employed in 20 cases. Overall, high levels of agreement were found (86%) although this can be accounted for in part by the almost complete absence of some of the variables (this is discussed further in the results section). When these absent variables are removed, the levels of consistency between the raters is still good and ranges from 60 per cent to 100 per cent agreement for suspect's reactions and from 65 per cent to 100 per cent agreement for the type of tactics employed. An examination of two variables responsible for the outlying weak levels of agreement proved influential in the construction of a more detailed coding frame, utilised (and fully discussed) in Part Three of this thesis.

6. 3. RESULTS

Duration of interviews

Table 6. 1. examines the duration of the interviews in this study.

Table 6. 1. Duration of Interviews at Peckham and Orpington Police Stations

Station Length of interview	PECKHAM N=108 Cum%	ORPINGTON N=53 Cum%	COMBINED N=161 Cum%
Number of tapes lasting from:			
0 - 9 mins	26 (24%)	9 (17%)	35 (22%)
10 - 19 mins	35 (56%)	20 (55%)	55 (56%)
20 - 29 mins	27 (81%)	12 (77%)	39 (80%)
30 - 59 mins	15 (95%)	9 (94%)	24 (95%)
60 - 89 mins	4 (99%)	2 (98%)	6 (99%)
90 + mins	1 100%	1 (100%)	2 (100%)
Mean interview time	21 mins	23 mins	22 mins
Standard deviation	17.5	19.3	18.1
Range	106 mins (3-109)	88 mins (2-90)	107 mins (2-109)

80 per cent of the interviews were completed in less than 30 minutes and 95 per cent were completed in under one hour. The mean interview time was 22 minutes, with a range of between two minutes and one hour 49 minutes (SD 18.1). No significant difference was found between the two stations ($t = -0.67$, $df = 95$).

Officers present in interview at Orpington and Peckham Police Stations

Table 6. 2. provides details of the actual number of interviewing officers present, as well a breakdown of the sex of the officers.

Table 6. 2. Number and sex of officers present in interview

Station Officers	PECKHAM (N=108)	ORPINGTON (N= 53)	COMBINED (N= 161)
Nos. present 1*	15 (14%)	1 (2%)	16 (10%)
2	91 (84%)	51 (96%)	142 (88%)
3	2 (2%)	1 (2%)	3 (2%)
Sex Male	87 (80%)	42 (79%)	129 (80%)
Female	3 (3%)	1 (2%)	4 (3%)
Both	18 (17%)	10 (19%)	28 (17%)

(* sig, $\chi^2 = p < 0.05$).

In relation to the number of officers present in the interview, a significant difference emerged between the two stations where officers at Orpington were significantly less likely to resort to employing just one officer than their colleagues at Peckham. The table was reduced by amalgamating the very small number of cases where three officers were employed (2%) with the much larger two officers category ($\chi^2 = 4.5$, $df=1$, $p < 0.05$). In confirmation of previous research, the vast majority of interviewing officers were male (80%) and there were no significant differences between the stations ($\chi^2 = 0.22$, $df = 2$). That nearly one fifth of interviews (17%) were conducted by both a female and male officer might be related to the increased recruitment of female police officers within the London area generally, but there were only four cases (3%) in which only female officers were present. This does not allow for any satisfactory comparisons to be made. No significant differences were detected when the 'female' and 'both' categories were combined ($\chi^2 = 0.0$, $df = 1$).

Interview tactics

Table 6. 3. lists the type of tactics used by the interviewing officers. This table does not include all the tactics itemised on the coding frame as a number did not materialise or failed to occur in more than one per cent of the cases. Such variables included: threats, inducements, face saving excuses, minimising the seriousness of the offence and minimising responsibility for the offence.

Table 6. 3. Interview tactics at Orpington and Peckham Police Stations

Station	PECKHAM (N=108)	ORPINGTON (N=53)	COMBINED (N=161)
Interview technique	No. %	No. %	No. %
Rapport	4 (4%)	1 (2%)	5 (3%)
Open questions	106 (98%)	52 (98%)	158 (98%)
Leading questions	78 (72%)	40 (76%)	118 (73%)
Introduce evidence	78 (72%)	41 (77%)	119 (74%)
Manipulate self-esteem	2 (2%)	3 (6%)	5 (3%)
Emphasise serious offence	9 (8%)	3 (6%)	12 (8%)
Challenges:			
1. Lies / inconsistencies	26 (24%)	6 (11%)	32 (20%)
2. Past bad behaviour	4 (4%)	3 (6%)	7 (4%)
3. Accomplice	8 (7%)	5 (9%)	13 (8%)

The use of open questions proved very common (98%) and leading questions were evident in nearly three quarters of the sample (73%). The most common tactic proved to be introducing evidence (74%), followed by the tactic of challenging a lie or an inconsistency, although this was only present in one fifth of the cases. This particular tactic was present in more than twice as many cases at Peckham than at Orpington, although this rather marked difference was not significant ($\chi^2 = 2.9$, $df = 1$). Further challenges, such as information from accomplices (8%) and past bad behaviour (4%) were not commonly used. In 12 cases (8%) the interviewers chose to emphasise the serious nature of the offence. Evidence of manipulating self-esteem or attempting to establish rapport was noted in only five cases (3%). There were no significant differences between the stations.

Suspect responses

Table 6. 4. lists the type of responses given by suspects during the interview. Once again, not all the variables itemised on the original coding frame are included as a number failed to register more than one per cent. These included suspects not appearing to understand the questions, providing inappropriate answers and where they were abusive, very distressed or confused.

Table 6. 4. Suspect responses at Peckham and Orpington Police Stations

Station	PECKHAM (N=108)		ORPINGTON (N=53)		COMBINED (N=161)	
Subject reaction	No.	%	No.	%	No.	%
Polite	103	(95%)	53	(100%)	156	(97%)
Generally compliant*	84	(78%)	50	(94%)	134	(83%)
Gives full answers	64	(59%)	35	(66%)	99	(62%)
Confesses readily	36	(33%)	22	(42%)	58	(36%)
Repeated denials	23	(21%)	12	(23%)	35	(22%)
Gives motive	20	(19%)	14	(26%)	34	(21%)
Agrees readily*	14	(13%)	15	(28%)	29	(18%)
Self blame / remorse	5	(5%)	4	(8%)	9	(6%)
Crying / sobbing	1	(1%)	3	(6%)	4	(3%)
Angry or suspicious	3	(3%)	0		3	(2%)

(* sig, $\chi^2 = p<0.05$)

The vast majority of responses were classified as polite (97%), with 83 per cent as generally compliant, and 62 per cent as giving full answers. In contrast, in only two per cent of the cases did interviewees react in an angry or suspicious manner and there were only four cases (3%) where crying or sobbing was noted. A significant difference was detected between the stations in relation to the reactions 'generally compliant' and 'agrees readily'. In the former case, 94 per cent of interviewees at Orpington responded in this manner compared to 78 per cent at Peckham ($\chi^2 = 5.9$, $df = 1$, $p<0.05$). In relation to 'agrees readily', suspects at Orpington (28%) were more than twice as likely as

their counterparts at Peckham (13%) to produce this response ($\chi^2 = 4.7$, $df = 1$, $p < 0.05$). A more detailed examination revealed a degree of overlap between these two variables which, in general terms, could be regarded as measuring the level of 'co-operation' from a particular suspect.

Confessions or admissions obtained

Table 6. 5. provides details of the number of confessions or admissions and when they were made.

Table 6. 5. Confessions/admissions made at Peckham and Orpington Police Stations

Station	PECKHAM (N=108)	ORPINGTON (N=53)	COMBINED (N=161)
When made.	No. %	No. %	No. %
Confession/admission	59 (55%)	34 (64%)	93 (58%)
No confession	49 (45%)	19 (36%)	68 (42%)
First interview	57 (97%)	33 (97%)	90 (97%)
Subsequent interview	2 (3%)	1 (3%)	3 (3%)

Table 6. 5. shows that in more than a half of the cases examined (58%) a confession or admission was made. There were no significant differences between the stations ($\chi^2 = 0.9$, $df = 1$). Only three (3%) of the confessions or admissions were made in a subsequent interview (i.e., a later interview separated from the first by a distinct period of time).

Outcome of cases at Orpington and Peckham Police Stations

The eventual outcome of the cases is provided in the following three tables. All cases where charges were brought by the police appear at the lower court, the Magistrates Court, in the first instance. Defendants may have their case(s) dealt with at the lower court, or in certain circumstances, elect to have their case tried at the Crown Court, or they may be sent to the Crown Court for sentence. Table 6. 6. provides details of the initial outcome from the police stations, together with an

overall conviction rate from the two courts and the nature of the sentence imposed. Tables 6. 7. and 6. 8. provide a breakdown of the results in relation to the Magistrates Court and the Crown Court respectively. It was not always possible to achieve complementary total figures as a number of cases were often split, either in terms of charges, pleas or sentences.

Table 6. 6. Disposal of cases at Orpington and Peckham Police Stations

Station	Peckham (N=108)	Orpington (N=53)	Combined (N=161)
Charged	69 (64%)	37 (70%)	106 (66%)
No further action (police)	32 (30%)	13 (25%)	45 (28%)
No further action (C.P.S.)	3 (3%)	0	3 (2%)
Station caution	6 (6%)	3 (6%)	9 (6%)
Discontinued (by C.P.S.)*	23 (33%)	2 (5%)	25 (16%)
Overall conviction rate*	38 (35%)	31 (59%)	69 (43%)
Custodial sentence	16 (15%)	14 (26%)	30 (19%)
Non-custodial sentence	24 (22%)	18 (34%)	42 (26%)

(* χ^2 = sig, $p < 0.01$)

Overall, two thirds of the cases resulted in the suspect being charged by the police with at least one offence. In the remaining cases; the police took no further action in 45 cases (28%), nine cases (6%) resulted in a caution at the police station and no further action was advised by the Crown Prosecution Service (CPS) in a further three cases (2%). There were instances where a suspect, under investigation for a number of offences, was eventually subject to more than one result. For example, in one case a person was cautioned for one offence and the police took no further action for another allegation. A significant difference between the two stations was found in relation to cases being discontinued by the CPS (χ^2 = 7.1, df = 1, $p < 0.008$). At Peckham there were 23 cases (33%) discontinued compared with only 2 cases (5%) from Orpington. Where information was available in relation to this

decision, it would appear that the majority were terminated because either a witness or victim/loser withdrew their complaint, or the CPS did not consider there was sufficient evidence available. Not surprisingly, there was also a significant difference in the conviction rate between the two stations, with Orpington achieving a rate of nearly 60 per cent compared with the 35 per cent recorded at Peckham ($\chi^2 = 7.1$, $df = 1$, $p = <0.008$). Overall, a conviction was obtained in 69 cases (43%), resulting in custodial sentences in 30 cases (19%) and non-custodial sentences for 42 cases (26%). In some instances dual sentences (a custodial and non-custodial sentence handed down at the same time) were imposed.

Table 6. 7. provides details of the eventual outcome of the cases after the person has been charged and appeared at the Magistrates Court.

Table 6. 7. Outcome of cases at the Magistrates Court from Orpington and Peckham Police Stations

Station	Peckham (N=69)	Orpington (N=37)	Combined (N=106)
Magistrates Court disposal			
Guilty (at least 1 charge)	13 (19%)	13 (35%)	26 (25%)
Pleaded not guilty	9 (13%)	1 (3%)	10 (9%)
Found guilty	6 (9%)	1 (3%)	7 (7%)
Custodial sentence	3 (4%)	4 (11%)	7 (7%)
Non-custodial sentence	16 (23%)	11 (30%)	27 (26%)
Crown Court	27 (39%)	21 (57%)	48 (45%)

Defendants from Peckham, whose cases were heard at the Magistrates Court, were more likely to plead not guilty (13%) than their counterparts at Orpington, where only one defendant (3%) entered a not guilty plea ($\chi^2 = 3.3$, $df = 1$, $p < = 0.07$, ns). At Orpington, more than one third (35%) pleaded guilty compared with 19 per cent at Peckham. Of the 10 cases that entered a not guilty plea, seven (7%) were found guilty. Just over one quarter of the cases (26%) received non-custodial sentences, such as a fine or probation order, and seven

cases (7%) were dealt with by way of a custodial sentence. In some cases dual sentences were imposed (e.g., a defendant was sentenced to 21 days in a Young Offenders Institute and fined). Overall, 48 cases (45%) either elected to go to the Crown Court or were sent to the Crown Court for sentence. There was a marked difference between the two stations in respect of the number of cases being dealt with at the Crown Court. 57 per cent of the cases from Orpington were dealt with in this fashion compared with only 39 per cent of the Peckham cases ($\chi^2 = 2.9$, $df = 1$, ns).

Table 6. 8. Outcome of cases at the Crown Court from Orpington and Peckham Police Stations

Station	Peckham (N= 27)	Orpington (N= 21)	Combined (N= 48)
Crown Court disposal			
Guilty (at least 1 charge)	16 (59%)	13 (62%)	29 (60%)
Pleaded not Guilty	11 (41%)	8 (38%)	19 (40%)
Found Guilty	4 (15%)	4 (19%)	8 (17%)
Custodial sentence	13 (48%)	10 (48%)	23 (48%)
Non-custodial sentence	8 (30%)	7 (33%)	15 (31%)

More than half of the cases being heard at the Crown Court (60%) pleaded guilty to at least one charge. Of the remaining 19 cases (40%) where a not guilty plea was entered, eight (17%) were found guilty. In almost half of the cases (48%) a custodial sentence was imposed, which compares with 15 cases (31%) where a non-custodial sentence was passed. There were no significant differences between the stations. Once again, in some cases dual sentences were imposed.

6. 4. DISCUSSION

It is evident that the techniques used by the police officers in this study share little in common with the manipulative and persuasive variety found pre-PACE by Irving (1980) and to a lesser degree by Softley (1980). Rather, they add to the growing corpus of research that

questions the widely held belief that suspects make admissions because of the highly skilled questioning or manipulative psychological ploys adopted by the police (Moston et al., 1992; Baldwin, 1993). The interviews in this study tended to be relatively short encounters, conducted with often polite and communicative individuals. Indeed if the time taken at the beginning of each interview for introductions, explanations and cautions was removed, the average time is likely to fall to below twenty minutes per interview (Table 6. 1.). On occasions, officers contented themselves with completing the interview to coincide with the actual length of the tape. Only tapes of 30 minutes duration were available at each station and in over 80 per cent of all cases only one such tape was employed. Williamson (1990) also reported that 99 per cent of his cases (N=1000) were concluded within 45 minutes where the participants were using tapes of 45 minutes duration. It may well be that the introduction of such technology is to some extent influencing the temporal boundaries of the police interview.

In this study, officers appeared to have a limited repertoire of tactics. Instances of multiple tactics in any one case were quite rare (maximum number was seven - mean = 3.75 - which typically included putting the allegation and employing open and leading questions). It may be that officers are unsure as to what is acceptable behaviour in the wake of new legislation (PACE), particularly in respect of coercion or oppression during interview (Baldwin, 1994). In part, this may be due to some of the judgements from the courts, which are not always consistent in what they consider to be 'oppressive', 'voluntary' or 'fair' (Gudjonsson, 1994a, 1995b). Such issues do not, however, begin to account for the speed at which some officers sought to conclude the interview or the apparent absence of any preparation on their part (evidenced by the

pedestrian manner adopted by the officers and their inability to adapt to the changing circumstances, presented by the suspect's responses).

It was not one of the aims of this study to categorise the tactics employed as either 'good' or 'bad'; rather, it was intended to identify the techniques and together with other background and psychological factors, relate them to the outcome of the interview. However, the actual absence in many cases, of discernible tactics provides some cause for genuine concern, the main implication being that insufficient planning had taken place beforehand. From a methodological perspective it is often difficult to evaluate just how much planning or preparation has gone into the pre-interview process. At the time of this study, officers did not make a record of their proposed interview plan and the researchers were not party to any prior discussions between the police officers. By design, therefore, any comment is dependent upon a subjective interpretation of the dynamics of the interview process by the present author. Although a number of methodological issues have already been expanded upon, it is argued that the author's police experience (of conducting and managing police interviews with suspects, for all categories of crime, spanning more than two decades) qualifies him to make a suitable evaluation in this regard.

The most obvious indication that preparation was not as thorough as one would expect was often provided by one of the officers having to leave the room to collect an exhibit or statement, which was essential to the case (as opposed to an unexpected issue) and one which should have been present before the interview commenced. There were sometimes exceptionally long pauses whilst details were retrieved from within the depths of a bundle of documents. Officers conferring

with one another on the tape, in relation to details of the scene, an address, or location also suggested that they were not following an agreed format. In some cases, officers had sufficient records with them, yet still made glaring errors, in relation to important facts. Crucially, this was often at the beginning of the interview with the result that it (audibly) reduced the credibility of the interviewing officer and no doubt influenced the suspect's perception of the strength of the evidence against him. The following is a typical example.

The suspect had been arrested for a burglary, where a large amount of office equipment had been stolen. The suspect, whose fingerprints have been found in an incriminating position, has a legal adviser present.

First officer:

" It was a break-in to office premises at, between the 5th and 6th of August..... and it was in the afternoon. Now you were told before that you were suspected, and indeed it is known that you were responsible for that burglary. "

Second officer interrupts:

" Can I just say it was an overnight."

First officer:

" Yeh. It was an overnight burglary at 23.55..... Did you commit that burglary?"

Suspect: " No."

First officer:

" Do you know the premises I am talking about?"

Suspect: " No."

First officer:

" You know Orpington don't you? "

The first officer has got the times wrong, does not appear to have established whether the suspect may have a legitimate reason for being in the premises, and does not appear to have established whether the suspect even knows where the premises are. Matters do not improve. The first officer repeatedly asks for an explanation as to why the person's fingerprints were found in the premises. He appears unable to introduce any new dimension or even a simple variation, such as 'where were you on.....?' The interview is effectively over when the officer prematurely announces that he intends to charge the person with the burglary which, under PACE, deprives the officer of the opportunity to put any further questions to the suspect, except in special circumstances (Code C, p 64). Apart from correcting his colleague, the second officer takes no active part in the interview.

A recurring finding that had not been anticipated was the silent or minor role adopted by the second interviewing officer. Exact details are not available of the number of cases where this officer took no active part or made no real contribution to the proceedings. It is known, however, that at least two officers were present in 90 per cent of the cases (Table 6. 2.) yet it appeared to the author that a substantial proportion of the cases were conducted primarily by only one officer. 'The Interviewer's Rule Book', circulated to all police officers in England and Wales, strongly recommends the use of two participating interviewing officers and actually itemises some 18 examples of the benefits that can accrue from this tactic (CPTU, 1992a, p 22). The recurring dominance of just one officer in this study however, not only represents another example of poor preparation, but suggests that the inherent value of a joint approach ('two heads being better

than one', *ibid*, p 23) is not fully appreciated, and from a management perspective, this finding must represent a waste of precious resources.

Whilst there were many examples where forensic or witness information was introduced (Table 6. 3.), in only one fifth of the cases were follow-up questions introduced in the guise of a 'challenge about lies or inconsistencies'. It is true that this apparent absence of a secondary phase of interrogation may be mitigated to some extent by the relative haste at which some confessions or admissions were made (see Table 6. 5.) but it also appears to have exposed a certain limitation within the current police training model. There were a number of instances where officers chose not to scrutinise a suspect's account despite possible discrepancies. Without disputing the solid ethical framework underpinning current police training, an apparent unwillingness to challenge the suspect's version of events suggests that some additional guidance might be appropriate. Perhaps the 'C' in PEACE might also represent 'Challenge' so that before an interview is brought to a conclusion officers will be encouraged to test the substance of a suspect's account. Such a recommendation is prefaced with the need for officers to be aware of the vulnerability of some interviewees. The latest guidance for police interviewing officers now incorporates this recommendation (National Crime Faculty, 1996).

In terms of the suspects' reactions, 'agree readily' and 'generally compliant' (Table 6. 4.), a significant difference was detected between the two police stations, with Orpington interviewees tending to be more 'co-operative' than their Peckham counterparts. Such a finding is thought to be a reflection of the wider social and demographic differences between the two police station locations. As noted previously, these particular police stations were originally chosen

as they reflected two quite distinct populations and environments. Peckham is a typical bustling, cosmopolitan, inner-city environment, the profile of which is dominated by quite extensive housing estates. In this study, Peckham processed a much greater and varied selection of suspects than Orpington, an outer London suburb, with a considerable home owner population. Some indication of the contrasting features of the two regions may be gauged by the significant differences in levels of social deprivation, measured by the Index of Local Conditions (DoE). According to the Index, the London Borough of Bromley (Orpington Police Station) is the least deprived borough in London with an index value of -18.15 (where scores of zero are the national norm). This compares with a score for Southwark (Peckham Police Station) of +37.66 (Census and Forecasting Broadsheet No. 3., L. B. Bromley, October 1994).

Despite the quite considerable methodological difficulties already alluded to, it is interesting to note that in very crude terms, the admission or confession rate does appear to have remained relatively constant over the past decade, despite the reported decrease in tactics employed. In this study a confession or admission was detected in 58% of the cases. This is similar to other post-PACE studies such as Baldwin - 62% (1993), Moston et al. - 55% (1993), Moston and Stephenson - 59% (1993b) and McConville and Hodgson - 60% (1993). Given the brief duration of interviews, such findings support the contention that suspects enter a police interview having already decided whether to admit or deny the allegations against them - regardless of police interviewing techniques. As Baldwin (1993) noted:

“ The great majority of suspects stick to their starting position - whether admission, denial, or somewhere in

between - regardless of how the interview is conducted."

(ibid, p 333).

The picture that is emerging from this research suggests, that in general or run of the mill cases at least, little energy is being expended within the confines of the interview room. The frequency and variation of interviewing tactics employed is rather low and, in the majority of cases, the second interviewing officer takes no active part in the proceedings. The purpose of the next chapter is to examine the extent of the influence of the legal adviser in the interview process.

CHAPTER SEVEN

POLICE INTERVIEWING AND LEGAL REPRESENTATION

In this chapter I will report on:

- the number of legal advisers present in the police interview, and examine the relationship between:
- legal advice and a suspect's decision to exercise his right to silence, and
- legal advice and a suspect's decision to confess or make an admission.

7. 1. INTRODUCTION - LEGAL ADVICE AT POLICE STATIONS

Legal advisers are often the only independent agent a detainee will come into contact with and as such, they have a pivotal role to play, not only in providing support, but also in ensuring that suspects fully understand their rights and are not disadvantaged by police interview tactics. Given that some suspects may not be able to appreciate (in the short or long term) the implications of self-incriminating admissions (Clare and Gudjonsson, 1995), complex legal concepts such as intent or the bewildering laws of evidence, the Philips' Commission endorsed the fundamental requirement for access to a solicitor, implying that:

"Only an experienced lawyer can give him this kind of information and advise him how best to proceed." (Philips, 1981, p 100).

Research post-PACE suggests that the presence of a legal adviser has increased (Irving and MacKenzie, 1989; Gudjonsson, 1992a; Runciman, 1993) but great variation has been detected across the country both in terms of advice and uptake (Sanders et al., 1989; Dixon et al., 1990). The significant relationship between the presence of a legal adviser

and the likelihood of a suspect exercising his right to silence and failing to make a confession has already been outlined in Chapter Four.

Research has also been concerned with the quality and status of legal advisers attending police stations. In their report for the Royal Commission on Criminal Justice, Research Study No.16, McConville and Hodgson (1993) had the opportunity to observe, at first hand, legal advisers providing advice to persons detained at police stations. Their report is a damning indictment of this section of the legal profession and raises very serious questions in respect of the quality and cogency of the advice given. Station advice work was perceived as low priority and often undertaken by unqualified clerks, lacking in knowledge, confidence and the ability to provide adequate support for their clients. In three-quarters of all the cases observed (N=180), suspects who requested a solicitor were seen by a non-qualified representative. The consultations with clients were often very brief or non-existent, with nearly 50 per cent taking less than 10 minutes and three quarters of the interviews began with the adviser enjoying only a scant knowledge of the case. Contrary to previous speculation, in the majority of the cases, advisers do nothing to encourage the suspect to remain silent and for nearly 80 per cent of the cases studied, either actively advised clients to give their accounts or assumed that they will. Baldwin (1992b) reported on the general passivity of most legal advisers. He commented that:

“ In many instances lawyers sat in silence when the situation seemed to cry out for them to intervene or to raise some objection to the nature of questioning.” (p 29).

A number of hypotheses were generated from previous research. These include:

(i) suspects with a legal representative present in interview will be more likely to exercise their right to silence than suspects without legal advice (Moston et al., 1993),

(ii) suspects with a legal representative present in interview will be less likely to confess or make an admission than suspects without a legal adviser (Moston et al., 1992), and

(iii) where a legal adviser is present in the police interview, they will tend to adopt a passive role (i.e., they will not intervene. Baldwin, 1992b; McConville and Hodgson, 1993).

7. 2. METHODOLOGY

Procedure

The researchers were granted access to the custody record of each suspect, the police copy of the CPS file and the audio-tape(s) of the police interview(s). The analysis of the audio- tape(s) included details concerning the legal adviser. The presence of a solicitor or legal representative in interview was recorded together with the extent to which they intervened on their client's behalf and also the extent to which a suspect sought advice (full details of the coding frame can be located at Appendix One, pages A1/9 - 11). Determining the actual status of the legal adviser attending the station proved particularly difficult and it soon became apparent that a broad range of titles were attributed to legal advisers with no built in system of verification. Such titles included: duty solicitor, solicitor, trainee solicitor, legal representative, managing clerk, articulated clerk and a number of agency advisers. Where any ambiguity existed concerning the actual status of the adviser, the firm of solicitors concerned were contacted to clarify the issue. In this thesis the distinction is confined to either a solicitor or legal representative. The title 'solicitor' will only be employed where the status of the individual is known or declared. The

term 'legal representative' includes trainee solicitor and the range of titles noted above. Where no distinction is necessary, or required, the generic term 'legal adviser' will be employed throughout this thesis.

In this study, two main categories were employed to determine the extent to which a suspect exercised his right to silence. The first category offered three options: (i) 'fully', (ii) 'partly' or (iii) 'not at all'. A person exercised his right 'fully' if he maintained an absolute silence throughout the interview, or if he answered 'no comment', 'I've got nothing to say' or similar negative phrases throughout the interview. A person exercised his right 'partly' if he was selective in his use of silence or negative responses. Finally, suspects who answered all the questions asked of them fell into the sub-category 'not at all'. The second main category concerned suspects who had exercised their right of silence 'partly', and sought to determine whether their answers distinguished between relevant (i.e., the offence for which they had been arrested) and non-relevant material (e.g., personal details). This was designed to identify the extent to which suspects were able, or confident enough, to discriminate between incriminating material during the interview. This study took place prior to the changes to the right of silence, introduced by the Criminal Justice and Public Order Act 1994, which allows, in certain circumstances, adverse inferences to be drawn from a person's silence.

7.3. RESULTS

Table 7. 1. examines the extent to which the suspects in this study exercised the right to legal advice and the right to silence, whilst in detention.

Table 7. 1. Extent to which suspects exercised their rights at Peckham and Orpington police stations

STATION	PECKHAM (N=108)		ORPINGTON (N=53)		COMBINED (N=161)	
Rights of suspect	No.	%	No.	%	No.	%
Legal advice: Solicitor legal representative Combined	26	(24%)	13	(25%)	39	(24%)
	32	(30%)	20	(38%)	52	(32%)
	58	(54%)	33	(62%)	91	(56%)
Intervention by legal adviser*	21	(19%)	3	(6%)	24	(15%)
Suspect seeks advice	3	(3%)	2	(4%)	5	(3%)
Right of silence: Full Part No	5	(4%)	2	(4%)	7	(4%)
	30	(28%)	10	(19%)	40	(25%)
	73	(68%)	41	(77%)	114	(71%)
If partly: Relevant Non-relevant	25	(23%)	9	(17%)	34	(21%)
	5	(5%)	1	(2%)	6	(4%)

(* χ^2 = sig, p = < 0.01)

Overall, a legal adviser was present in 91 cases (56%) although qualified solicitors made up less than a quarter (24%) of the 161 cases. This compares with legal representatives who attended in almost a third (32%) of the total. There was no significant difference between the two stations with reference to attendance rates of the legal advisers (χ^2 = .08, df = 1). However, it is noteworthy that at Orpington an adviser was present in 62 per cent of the cases, although of course the overall sample size was rather small (n =53). The legal adviser actually intervened in just 24 cases (15%) and there were only five examples (3%) where the suspect sought advice during the interview. An intervention by the legal adviser was significantly more likely at Peckham Police Station than at Orpington (χ^2 = 7.9, df = 1, p = <0.01) although there was no difference between solicitors and legal representatives in this regard. The right to silence was exercised ‘fully’ in just 7 cases (4%) and in 114 cases (71%) the suspects chose to answer all police questions. Of the 40 individuals (25%) who adopted a

selective strategy, the vast majority (34 suspects) remained silent in respect of relevant, or incriminating, crime related questions.

In Table 7. 2. those suspects who exercised their right 'fully' and those who were selective in relation to crime matters have been amalgamated into one category 'full or part relevant'.

Table 7. 2. Legal advice and the right of silence

Right of silence	Legal advice	No legal advice	Total
Used silence (full/part)*	34 (37%)	7 (10%)	41 (25%)
Did not use silence	57 (63%)	63 (90%)	120 (75%)
Total	91 100%)	70 (100%)	161 (100%)

(* $\chi^2 = \text{sig}$, $p < 0.0001$)

A suspect was significantly less likely to exercise his right to silence in the absence of legal advice. Only seven suspects (10%) did so compared with 34 suspects (37%) who had a legal adviser present. ($\chi^2 = 14.2$, d.f.=1, $p < 0.0001$).

Table 7. 3. looks at the relationship between the presence of a legal adviser and a suspect's decision to confess or make an admission.

Table 7. 3. Legal advice and confessions / admissions obtained

Decision to confess	Legal advice	No legal advice	Total
Confession / admission*	40 (44%)	53 (76%)	93 (58%)
No confession / admission	51 (56%)	17 (24%)	68 (42%)
Total	91 (100%)	70 (100%)	161 (100%)

(* $\chi^2 = \text{sig}$, $p < 0.0001$)

No confession or admission was made by suspects who received legal advice in over half of the cases (56%) compared with less than one quarter who did not have such advice (24%). A confession was

significantly less likely in the presence of a legal adviser (44%) than without (76%). ($\chi^2 = 15.1$, d.f. = 1, $p = < 0.0001$).

7. 4. DISCUSSION

Perhaps the most encouraging finding of this part of the research was that, in 56 per cent of cases, a legal adviser was actually present during the police interview and, taking Orpington on its own, the figure climbed to 62 per cent (Table 7. 1.). This is the highest recorded figure to date and continues the upward trend detected since the introduction of PACE. This would suggest an increased awareness on the part of detainees of their legal rights and entitlements, and that they are actually exercising this right more frequently. This is clearly consistent with the original intention of the Philips' Commission (1981) and the spirit of PACE. That the majority of advisers were actually legal representatives (57%) may well reflect their greater availability in metropolitan areas, although this study did encounter one firm of solicitors which relied very heavily on legal representatives, and this particular firm had a separate office in the catchment area of both police stations.

Some caution is recommended in interpreting these figures as the extent to which the presence of the researchers may have influenced this process is open to debate. To examine this issue, a review of comparable custody records taken from the four month period prior to this study commencing was undertaken. This indicated that at Peckham, 54 suspects out of 118 (46%) received legal advice, and at Orpington, 27 suspects out of 55 (49%) received such advice. In total therefore, 47 per cent of suspects received legal advice in this earlier period. As the findings are not markedly different from the results of the study it may be that the impact of the researchers on the working

practices of the Custody Officers was somewhat minimal and short-lived, and that their presence was quickly accepted. In truth, as the overall numbers are rather small, it is very difficult to assess this issue accurately.

This research encountered considerable problems in attempting to determine the actual status of legal advisers. Law Society guidelines (incorporated into a recently published training package) expressly state that representatives “..must inform the police and suspect of their status.” (Law Society, 1994, para. 3.4.1). In a large number of cases, the status of the person attending was equivocal and studying the custody record or the audio-tape of interview failed to resolve the issue. Such an ambiguous situation is potentially very misleading and undermines the principles of custodial legal advice. Given that it is also likely to impinge upon the decision making process of the suspect (McConville and Hodgson, 1993) this procedure should not be allowed to continue in its present esoteric form. Procedures are needed which enable the legal adviser's status to be readily identifiable and recorded (e.g., straightforward identification badges and a dedicated entry on the Custody Record).

Legal advisers were significantly more likely to intervene during an interview at Peckham than Orpington Police Station (Table 7. 1.) and, again, there was no difference between solicitors and legal representatives in this respect. Such regional differences may well reflect the influence of wider socio-economic and demographic issues (previously discussed in Chapter Six) and such macro features are beyond the scope of this thesis. The legal adviser generally intervened in relation to an administrative matter (to clarify a street name, location, or a person's details, or to get the person to speak up), or to

reaffirm their original advice (i.e., the right to silence). What was noticeable was the fact that where a legal adviser reminded his or her client of the original advice (i.e., that they were not required to answer police questions) there was no guarantee that the client would take heed of the adviser.

A significant number of suspects who had legal advice, 34 (37%), chose to exercise their right to silence (either fully or in relation to an offence related question) compared with only seven suspects (10%) who resorted to this tactic in the absence of legal advice (Table 7. 2.). The actual status of the legal adviser was not significant in this regard. The degree of the use of the right to silence in this study is similar in many respects to Moston et al. (1993). They concluded that such a difference:

“..shows just how big an effect legal representation does have on the behaviour of suspects.” (ibid, p 40).

The fact that this study also found a significant relationship between the presence of a legal adviser and a suspect's decision not to confess or make an admission (Table 7. 3.) would appear to support this view of the dominant role of the legal adviser (Moston et al., 1992, 1993). However, whilst that might be reflected in the statistical findings, the message from the tape recorded interviews is less clear. One important factor that should not be overlooked is the influence of the individual suspect. McConville and Hodgson (1993) noted that suspects may have “..very decided views about whether to answer police questions...” (ibid p 68) and that it was misleading to assume that the adviser played the dominant role in setting out the strategy for the forthcoming police interview. For example, there were 23 suspects (14%) who, unprompted, declared a wish to remain silent in the

McConville and Hodgson (1993) study. Another way of looking at this issue is to ask whether a 'passive' or 'silent' legal adviser (Baldwin, 1992b; McConville and Hodgson, 1993) can be accused of promoting an aggressive 'No Comment', 'No Confession' policy? (Moston et al., 1992, 1993).

This unresolved dispute over the influence of the legal adviser remains an intriguing issue and future research has received added impetus by the introduction of the Criminal Justice and Public Order Act 1994. This allows, in certain instances, adverse inference to be drawn from a suspect's use of the right of silence although no research is currently available in respect of the impact of this new legislation (Williamson, 1996). The final picture remains unclear. On the surface, it would appear that a suspect is more likely to exercise his right of silence and is less likely to confess if he has legal advice (Moston et al., 1992, 1993; Pearse and Gudjonsson, 1997). Those researchers however, who have been present when station legal advice is actually dispensed argue that it is quite wrong to assume that legal advisers automatically recommend such a tactic (McConville and Hodgson, 1993). In fact, McConville and Hodgson (1993) quite convincingly portray a level of naiveté and inexperience amongst advisers which mitigates against such a policy in almost 80 per cent of their cases (although it should be born in mind that this particular study has been criticised for poor sampling procedures, in that it was very discriminating in relation to the legal firms it chose to examine and it also imported selected cases from an earlier study by Sanders et al, 1989; see also Brown, 1997).

The present author would argue that the fact that a significant relationship has been found between the presence of a legal adviser and a suspect's decision to exercise his right to silence or not to

confess, does not automatically imply that the legal adviser is responsible for that decision. One of the limitations of this study is that it was not possible to ask the suspect (and the legal adviser) for their explanation for the reasons behind the outcome of the interview. It is only when the perceptions and motivations of these key players is better known that our understanding of this complex issue will improve. A review of the results from this study - few manipulative or coercive tactics (Table 6. 3.); confession rates similar to other studies, with 97% occurring in the first interview (Table 6. 5.); few interventions by the legal adviser and even fewer requests for advice from the suspect (Table 7. 1.) - suggests that, in many of the cases, the decision to admit or deny the offence had been taken prior to the police interview. Such findings warrant a further examination of the dynamics of the police interview which extends beyond the role of the police officer or legal adviser. It is possible that the suspect plays a leading role in formulating his strategy and calls upon the services of a legal adviser not only for advice in relation to the wisdom of that strategy but also a supporting physical and psychological presence (Pearse and Gudjonsson, 1997; Brown, 1997).

There remains one other party to the police suspect interview, whose role and performance has been the subject of little empirical research. The following chapter will examine those cases where an AA was present in the interview to determine the level of the contribution made and the possible impact on the decision making process of the suspect.

CHAPTER EIGHT

THE PERFORMANCE OF THE APPROPRIATE ADULT AT PECKHAM AND ORPINGTON POLICE STATIONS.

8. 1. INTRODUCTION

In January 1986, alongside a rationalisation of police powers, PACE provided three main safeguards for detainees. These were:

- the unequivocal right to free legal advice and the creation of a 24 hour Duty Solicitor Scheme,
- the audio-taping of all police interviews, and
- the introduction of the concept of an AA.

Given that not all suspects elect to have legal advice, and the audio-tape recording of the interview represents an accountable post-interview record, it can be argued that the most important contemporary safeguard for psychologically vulnerable suspects is the presence of an AA.

Since the publication of the 1991 edition of the Codes (April, 1991), police officers are required to inform the AA of their role and obligations. Thus:

"Where an AA is present at an interview, he should be informed that he is not expected to act simply as an observer; and also that the purposes of his presence are, first, to advise the person being questioned and to observe whether or not the interview is being conducted properly and fairly, and secondly, to facilitate communication with the person being interviewed." (Code C, 1991, p 55).

Although this definition implies an interventionist and active participation on the part of the AA, rather than a passive role, the research to date suggests that an AA does not tend to interrupt the interviewing police officers (Evans, 1993a, b; Robertson et al., 1996) but where they do intervene, it is likely to be inappropriate or assist the police officers, rather than the detainee (Gudjonsson, 1992a, 1993, 1994b; Evans, 1993a, b; Bean and Nemitz, 1994; Palmer and Hart, 1996). In particular, relatives of the detainee are often found to be too emotionally attached to remain objective, and there have been cases where the relative has suffered from a mental disorder to a similar or greater degree than the detainee (Gudjonsson, 1993). Evans (1993a) in his research on juvenile offenders and the role of the AA concluded, " by and large they leave juveniles exposed and unsupported. When parents contribute to interviews they are as likely to act for the police as for their children." (ibid, p47).

Whilst a number of other problems in relation to the availability and suitability of AAs have already been outlined in Chapter Three, the purpose of this part of the thesis is to examine in some detail, those cases where an AA was present in interview to determine whether they actually performed their role as envisaged under the Codes. It was hypothesised that:

- (i) the AA will adopt a passive role, i.e., will not intervene (Evans, 1993a), and
- (ii) if the AA does intervene, they will not remain independent as envisaged under the Act (Evans, 1993a; Gudjonsson, 1993).

8. 2. METHODOLOGY

Procedure

A copy was made of the audio-tape(s) of the police interview(s) and each tape was analysed using a specially constructed coding frame (see Appendix One, pages A1/9 - 11). Information was sought in relation to whether (1) an AA was present, (2) the officers informed the AA of his or her responsibilities, and (3) whether or not the AA intervened. Two central questions were addressed. First, did the AA intervene? The results to the answer of this question will be outlined in two categories - where an intervention took place and where there was no intervention. The second question was: whether the action (or lack of action) by the AA was appropriate? In other words, if they did intervene, was it justified, or if they were silent, was there any evidence that they should have intervened? Where any intervention did take place, on the part of the AA, a record was made of the relevant conversation. Extracts from the interviews will not feature the names of the suspects, instead personal pronouns or the label 'suspect' will be employed throughout this thesis. Third party references will also be confined to a general term (e.g., wife or father).

This approach raises a number of methodological issues concerning the proposed evaluation. How do we know, for example, when an intervention (or a continued silence) is appropriate? Baldwin (1993) has argued, that in respect of the interpretation and evaluation of the audio-tapes of a police interview, there is "... an almost limitless number of ways of making sense of them." (ibid, p 328 - a number of these issues have already been discussed in Chapter Six). It is also true that in relation to the performance of an AA for mentally disordered adult suspects, no detailed research has been conducted and there are no established criteria to determine what is, or is not, appropriate. In this

thesis, it is proposed to utilise the definition of the role of the AA provided in the Codes (and reproduced above) as a suitable framework. Although the ambiguous nature of this definition has been criticised by the present author (see Chapter Three) it is still possible to elicit some fundamental principles which are applicable to assist in the legitimate interpretation of this data.

In the first instance, it is not in dispute that the role of the AA is seen as independent of the police and the legal adviser (s77(1)(ii) PACE; *R. v. Campbell* [1995] 1 Cr. App. R. 522; *R. v. Bailey* [1995] 2 Cr. App. R. 262). I would not expect therefore, for the AA to adopt the mantle of the investigating officers and take part in the investigation process, nor would I expect the AA to offer legal advice, such as when to exercise the right to silence. Such action would be inappropriate. Issues in relation to the 'independent' status of an AA are further compounded by the adversarial nature of the criminal justice system in England and Wales. The mere fact that a person is 'called in' by the police may create the impression of an association with the prosecution and in cases where the AA is also acting in a professional capacity (e.g., psychiatrist or psychologist) they are likely to be asked to provide a statement 'for the prosecution' (these and related issues are fully discussed in Pearse and Gudjonsson, 1996b, c, d).

The definition of the role also envisages 'facilitating communication' and observing whether 'the interview is being conducted properly and fairly'. In relation to the former, it would be appropriate for the AA to intervene where the detainee does not appear to understand what is being asked, and also where the officers do not appear to understand, or may mis-interpret, his replies. Resolving the latter may, however, prove more problematic given the inherently coercive nature of police

interviewing (Irving 1980; Irving and Hilgendorf, 1980) with officers seeking to elicit a confession and suspects keen to avoid the likely consequences, there is always the potential for a tense and ill-natured encounter. Whilst this will not always be the case (see Chapter Six) where it does occur, what is an acceptable level? Is it acceptable for example, for an officer to shout at a suspect? Recent legal judgements provide some guidance.

In R v Paris and others (see Chapter One) the Lord Chief Justice castigated the officers for their tough and confrontational approach, in an interview that was wholly contrary to the spirit of PACE, and which was found to be oppressive. This judgement was highly critical of the officers shouting at the suspect. A similar ruling was also provided in *R v West, T. J. (unreported, Gloucester Crown Court, 1988)* where the interviewing officer shouted at the defendant and used bad language (National Crime Faculty, 1996). However, in *R. v. Emmerson (1991) 92 Cr. App. R. 284*, where the officer raised his voice and used bad language, the court did not rule that such verbal intimidation was oppressive. In this case the actions of the officer were seen as a momentary lapse in self-control. From a legal perspective therefore, verbal intimidation would appear to be a question of degree; but can that be an acceptable proposition for an AA?

Police officers should not resort to shouting at suspects and if an AA was present in such circumstances, it would be part of their role to remind the officer of the need to exercise some restraint and decorum. To sit in silence and idly condone such behaviour would be inappropriate, and a tangible example of the AA failing to provide sufficient protection for a vulnerable suspect. It is appreciated that police officers may be confronted with aggressive and belligerent

detainees, who are not disposed to comply with the accepted protocol of conversational etiquette, but the officer should refrain from shouting; "This should be unnecessary from a person in authority." (National Crime Faculty, 1996, p 94). Where possible interviews should be conducted in a civilised manner and in this regard it is possible to apply standards of good practice, from other disciplines. Baldwin (1993) for example, suggests:

- allowing suspects an unhurried and uninterrupted opportunity to state their position,
- listening to their responses,
- avoiding harring, coercive or authoritarian tactics, and
- testing a suspect's account with fairness and integrity.

For the purposes of this thesis therefore, these standards represent some indication of what it is thought the Codes refer to as an interview that is 'being conducted properly and fairly'.

8. 3. RESULTS

Table 8. 1. provides a breakdown of the number of cases where; an AA was present, the AA intervened, and whether the AA was informed of his or her role and responsibilities, as required within the Codes.

Table 8. 1. The performance of the AA in interview at Peckham and Orpington Police Stations

AA Needed	Peckham (N=116)		Orpington (N=56)		Combined (N=172)	
No	97	(84%)	46	(82%)	143	(83%)
Yes	19	(16%)	10	(18%)	29	(17%)
AA Present	5*	(4%)	3	(5%)	8*	(5%)
AA Intervened	3*	(3%)	1	(2%)	4*	(2%)
AA Informed of role.	Yes 0	No 5 (4%)*	Yes 1 (2%)	No 2 (4%)	Yes 1 (<1%)	No 7 (4%)*

(* = clinical researcher acted as an AA in one case)

The total number of cases shown at this stage (N=172) is greater than those noted earlier in Table 5. 4. (N=163) because this table includes all

the cases where an interview actually took place, including where a psychological assessment was commenced, but could not be completed. Unfortunately, in one case at Peckham, one of the researchers agreed to act as an AA because no other suitable party could be contacted. This case does not form part of this study, although the fact that an intervention was made has been included in Table 8. 1. above. Given the limited number of cases where an AA was actually present, it is not safe to draw inferences from the findings in this study, or to generalise to other cases or police station areas. Excluding the case where the researcher acted as an AA, an intervention was made in three out of the remaining seven cases (2%).

8. 4. THOSE CASES WHERE THE AA MADE AN INTERVENTION

CASE 1: This case concerns an allegation of theft and the interview lasts for 27 minutes. The suspect was a married man, aged 21 years, who could not read or write. The AA was his wife and there was no legal adviser present. The suspect (and AA) did receive a full reminder of the right to free legal advice and the AA was reminded of her responsibilities under the Codes. The main interviewing officer appeared hesitant in his delivery, was lacking in confidence and did not appear to have prepared fully for this case (e.g., the interview was punctuated with periods of silence whilst relevant sheets of paper were examined). Some five minutes into the interview, the officer offers the suspect the police crime report containing the original allegation of theft.

Officer: " Can you see that?"

Suspect: " I can't read and write, I believe you though."

Officer: (to the AA)

" I mean, do you want to have a look at that and confirm that?"

Suspect: (interrupting his wife as she starts to speak)

"No she is alright."

The AA does not say anything and accepts her husband's decision. The police officers also remain silent.

Very shortly after this encounter, the suspect admits his role in the offence and the officers embark on a series of questions to establish where the suspect has lived in the past, and his knowledge of the local area. The AA offers some information in relation to the length of time they had lived at a previous address and assists in 'facilitating communication'. Eventually, the officers put a separate allegation of burglary to the suspect.

Officer: " Do you know anything about that burglary?"

Suspect: " No I don't officer."

Officer: " You don't?"

Suspect: "No"

Officer: " Are you sure?"

Suspect: " Positive."

Officer: " Alright. "

A silence ensues where the officer appears to be reviewing some papers. This silence is broken by the suspect.

Suspect: " If I done it, I would say yes I done it, or if I didn't done it I would say. I know I didn't done it. I didn't done it and that's it."

Officer: " Well just let me finish - "

The AA then whispers,

" I didn't done it, he said."

The officer(s) ignore this remark (or perhaps they did not hear it) and they continue with their investigation of the outstanding burglary, which the suspect continued to deny.

The AA then chose to introduce some alibi evidence on behalf of her husband.

AA: " If it was on the 27th I know he was with me, 'cos that was on me birthday."

Officer: "Yeh, what about the 28th?"

AA: " The 28th?"

Officer " Where was you on the 28th, the day after your birthday?"

The AA and the suspect then engage in a brief discussion regarding dates and the AA then changes her mind and says,

AA: " Hold on, no my birthday is on the 28th."

Officer: " Is it?"

AA " 28th February, 1971, yeh that's right."

Later in the interview, when the issue is one of identification, the AA again offers supporting alibi evidence for her husband.

The performance of the AA in this case is perhaps best examined in relation to the two distinct phases of the interview. The first phase is concerned with the original allegation of theft where the suspect readily admits his involvement in the offence. The evidence against the suspect appears quite strong (video tape evidence) and there is no obvious reason for the AA to intervene. The one instance where she is invited to participate, however, is very illuminating. The officer has shown her a crime report and invited her to check the contents. This suggestion is immediately dismissed by the suspect and neither the

officer(s), or more importantly, the AA, challenge the suspect's authority. It is clearly unwise to infer too much from this isolated episode in respect of the internal dynamics between husband and wife, but failing to even substantiate the police record of the criminal allegation, can be seen as an opportunity lost for the AA to exhibit an assertive and independent position.

In the second phase of the interview, where the suspect is denying an allegation of burglary, there are two occasions where the AA intervenes that warrant further examination. The first is clearly where she repeats her husband's denial. The fact that her delivery is made in a whisper, and that she adopts the same idiosyncratic syntax employed by her husband, may again be indicative of a lack of confidence and assertiveness on her part, but more worryingly, it may suggest that like her husband, she suffers from an intellectual impairment (Gudjonsson, 1993). The second example is where the AA clearly adopts a partisan role and provides, on a number of occasions, alibi information for the benefit of her husband. The reader may feel it is significant that the AA could not accurately recall her exact date of birth, and was prepared to change her story, but in some respects this may just be a distraction. The main issue is that the AA no longer represented an 'independent' person, whose presence was necessary to safeguard the legal and welfare needs of the suspect.

CASE 2. In this case the suspect has been arrested in possession of stolen property. He was 24 years of age and the AA identified himself as the suspect's father. The interview lasted for only 12 minutes and a confession was almost immediately forthcoming. The AA was not informed of his responsibilities under the Codes and there was no legal adviser present, although a very full reminder of the entitlement to free

legal advice was given. Possibly because the suspect was so quick to accept responsibility for handling the stolen goods, the interviewing officer only rather gingerly approached the question of whether the suspect had also been responsible for the original theft. Such a suggestion led to an intervention by the AA.

Officer: "So you see the suspicion is that you've obviously broken into the van to get the licence."

AA: "Excuse me. Can I butt in here? I must say this. Without a doubt, in all sincerity right. It could not have been him at that time of the morning because I picked him up at exactly five to one in the morning and I have witnesses to prove that."

The AA goes on to attempt to strengthen the alibi further but it is clear that the officer does not propose to challenge the situation and shifts the focus of his questions back to the stolen property. At the conclusion of the interview, the AA once more re-affirms his belief in the strength of the alibi he can provide.

There are a number of similarities between these two cases. In both, the evidence appears to be quite strong and the suspect is content to admit to the initial allegation almost immediately. It is at the first suggestion of other offences that an alibi declaration is proffered by the AA, to reinforce the strength of the suspect's denials. Obviously, it is not possible from these two examples to impose some form of censorship on the use of a relative as an AA, but these examples do indicate that there is a need for the interviewing officers to be more circumspect in relation to the exact nature of the involvement in any case of a prospective AA.

CASE 3: The suspect is 38 years of age and has been arrested for a number of offences of deception. The suspect readily admits his guilt and there is a legal adviser present, who remains silent throughout the 24 minute interview. The AA, who is not reminded of his role and responsibilities, introduces himself as the brother of the suspect. The interview proceeds very well. The officers have a number of documents to hand and often employ open questions to elicit the actual detail of how some parts of the offence were carried out. If the suspect did not agree with a question or a statement, he would say so. The brother's first intervention took place after six minutes when the discussion appeared to stall over the distinction between 'income support' and 'unemployment benefit'. The AA provided the information required. The timing was appropriate and the contribution relevant. There were two occasions, however, when the AA began to adopt an investigator's role. The officers had clearly searched the suspect's address and had found some cash in incriminating circumstances. The officer asked where the cash had come from. The suspect replied:

Suspect: " Do I have to answer that?"

Officer: " Well it is up to you."

The AA then said:

" I mean is that the money from the giro?" (which appears to be exactly what the officer was trying to elicit from the suspect).

The suspect chose not to answer this question, but when it was broached by the officer in a slightly different format shortly afterwards, he agreed that the money had been obtained from the giro (i.e., illegally).

A short while later the questioning focused on the name on an envelope. The officers clearly suspected that the detainee intended to use the identity to further his criminal activity. He, however, was not immediately forthcoming. At this stage the AA intervened and asked:

“ Was there anything in the envelope?”

Officer: “ No, it was empty that is why we are asking.”

The AA then said:

“ What is the post date on it?”

The officers supply this information and the suspect volunteers that he intended to use the name on the envelope as another alias, in case he was stopped and someone asked him his name. Later in the interview, the AA prompts his brother in relation to pieces of paper found at the suspect's address giving instructions about how to claim money from the Dept. of Social Security.

Officer: “ What does that refer to? Is that what you were giving to someone else?”

AA: “ Is that the lodger?”

Suspect: “ I don't see why you asked me that. Let me have a look at it.”

AA: “ I think [the suspect] was trying to get him to go down and get some money because he was unemployed.” and
“ [he] had trouble communicating with him. So that was the only way he could do it.”

These interventions appear straightforward, but the AA is answering the questions on behalf of the suspect and prompting him, which he should not be doing. Matters take a turn for the worse shortly afterwards when the suspect revealed that the lodger in question was in fact in employment. This suggests that the written instructions formed part of another attempt to procure money illegally, which reflects very

poorly on the prompting tactics adopted by the AA. This AA has entered into the investigative process despite the fact that his brother demonstrated that he was more than capable of answering the questions and challenging any assertions, if he wished to do so.

8. 5. CASES WHERE NO INTERVENTION WAS MADE BY THE AA

The remaining four cases involved rather short interviews, ranging from six to 18 minutes. A legal adviser was present in all four cases but remained silent throughout. In three of the four cases the police took no further action and the suspect was released from the station. The available evidence appeared to be quite weak in all these cases and this contrasts with the three cases just examined where there was a substantial amount of evidence available to the police. Strength of evidence has often been found to be related to the outcome of an interview (Baldwin, 1993; Moston et al., 1992, 1993) and perhaps it is not surprising that where the evidence against a suspect is weak and the officers are content to 'wrap' the interview up in a few minutes, there is likely to be no need for either the AA or the legal adviser to intervene. This certainly appeared to be the case in the following three (no further action) interviews, which I will briefly outline, where the officers employed open and non-confrontational interviewing styles.

In the first case, the suspect was arrested as a passenger in a van and was questioned concerning ownership of the vehicle and its contents. It was difficult to establish exactly what offence the police suspected this person of having committed. The AA was a 'Care Manager' (no other details available) and the interview lasted for 12 minutes. This AA was not reminded of her role and responsibilities under the Codes. The next case concerned a 19 year old man, currently an in-patient in a psychiatric ward, who had been arrested for arson. The AA was his

father, who was not reminded of his role under the Codes, and the interview lasted for just six minutes. The third case was also a very short affair lasting only seven minutes. The suspect, a 40 year old male, had been found in possession of a credit card in another name. The AA was his brother who, again, was not reminded of his responsibilities on tape. It was only in the last case, where there was some direct evidence against the suspect, that there was an opportunity for the AA, and indeed the legal adviser, to intervene.

CASE 4: The suspect in this case was 18 years of age and he had been arrested in connection with a recent burglary, along with a number of other suspects. The interview lasted 18 minutes, a legal adviser was present and the AA was the suspect's mother, who was not reminded of her responsibilities. The suspect is accused of committing a burglary whilst others kept watch, which he flatly denies. The main interviewing officer establishes the suspect's movements and associates for the previous day and responds to the suspect's repeated denials by playing selected parts of the audio-tape of a previous interview, where a co-accused has implicated the suspect in the alleged offence. Despite this, the suspect continues to deny the offence and is confident the police "will not find my forensic" in the property.

A giro cheque has been stolen from the address and the officer accuses the suspect of attempting to cash it. This is again denied and there follows a sequence of raised voices where both the suspect and police officer attempt to dominate the exchange by shouting louder than the other. The suspect finishes by saying:

"I don't wish to say anything if you think I done anything."

The officer continues playing further extracts from the other tape which implicates the suspect not only in the original burglary and attempting

to cash the cheque, but also in disposing of items of stolen property.

The officer stops the tape and asks:

“ Where's that telly?”

Suspect: “ I don't know. I've told you I don't even know what you are talking about, I don't know what your on about.....”

At this point the officer attempts to say something and both parties only succeed in drowning out one another. The interview has degenerated at this stage and the suspect can be heard saying:

“ I don't wish to say anything.”

Officer: “ We're talking about a burglary, a residential burglary and property that is missing from the burglary and a place that you ransacked yesterday afternoon and you being responsible, and I'm entitled to find out where the property went to. You took the 'Sony Trinitron' into a block yesterday afternoon and I would like that television back. Now what happened to the property ...?”

Suspect: “ I don't know, I don't know what your talking about. I don't think you do neither.”

Officer: “ Oh I know what I'm talking about sunshine.”

The interview has degenerated into a shouting match and neither the AA, nor indeed the legal adviser, take any action. It is clear that any hope of establishing a rapport or securing any detailed answers has disappeared. In this example, the officer has not allowed the suspect an unhurried or uninterrupted opportunity to maintain his position, and the fact that the suspect was vulnerable is most damaging to the officer's position. It would appear that the officer, who had already elicited a number of confessions from accomplices, was becoming increasingly frustrated by this suspect's refusal to admit his guilt. In these circumstances, there is a strong case that both the legal adviser and

the AA should have intervened to restore proceedings back to within the confines of acceptable conversational protocol.

8. 6. DISCUSSION

The purpose of this part of the study was to examine the role of the AA during the police interview procedure and the audio-tape facility provides us with a limited, but important, contemporaneous insight into the proceedings. Under current guidelines, an AA is allowed to consult privately with a suspect and is encouraged to adopt an active role during the police interview. In such circumstances, their performance or behaviour may have an important bearing on the decision making process of the detainee. Of the seven cases examined, only one AA was not related to the suspect, and the records do not relate how this individual was selected. All the interviews were rather short. Where an intervention was made, they ranged from 12 to 27 minutes with a mean of 21 minutes. The remaining four interviews (no intervention) ranged from six to 18 minutes with a mean of 10.75 minutes. One factor which appeared to influence the dynamics within the seven cases was the strength of available evidence. Where there appeared to be little or no evidence against the suspect the interviews were very short (mean of 8.3 minutes, N=3), often conducted in an open and informal manner, and there was no obvious reason for any party to intervene. In those cases where there was some credible evidence to put to the suspect, the interviews tended to be longer (mean of 20.25 minutes, N=4) and in three out of the four cases, interventions were made by the AA.

In only one case did police officers inform the AA of their role and responsibilities under PACE. In the remaining cases, it is not known whether this information may have been provided prior to the tape

commencing, but there would appear to be no indication that this was actually the case. It is, therefore, very difficult to judge the extent to which the individuals were fully aware of what they were required to do and this must, to some degree, constrain further comment about their performance. To remedy this situation, a prompt card is now available at police stations to remind all officers of their obligations under the Codes, and this includes notifying the AA of his or her role. According to Robertson et al. (1996) this simple intervention has proved effective.

Although the number of cases with an AA is small, the 4 per cent in this study is still more than eight times the figure of earlier research (Williamson, 1990; Bean and Nemitz, 1994; Robertson et al., 1995). This may suggest that the behaviour of the Custody Officers was influenced by the presence of the researchers and therefore the figure has been inflated. To test this hypothesis, a study of comparable custody records at the two stations, over the four month period prior to the commencement of the study, was undertaken. There were five cases where an AA was present in the interview and one further case where a suspect was actively mentally ill and the police could not find someone suitable to attend the station. As a similar incident was recorded whilst the researchers were in situ, this brings the number of cases to 6 out of 173 (3.5%), which is very close to the original finding. It may be the case that the researchers were readily accepted by the Custody Officers and quickly assimilated into the working environment at the two stations, which tended to negate the impact of their presence. It is also possible that the awareness of the need for an AA may be greater in the metropolitan areas. This is one of the reasons put forward by the authors of one of the largest studies in this field who

chose to examine police stations away from London (Bean and Nemitz, 1994)

In four of the cases cited in this section, a relative was employed as the AA, and all four appear to have either gone beyond the independent nature of the role envisaged under PACE, or failed to intervene when appropriate. Given the lack of recognised AA schemes in England and Wales (Pearse and Gudjonsson, 1996b, c) relatives often represent the only available option for many police officers, and the Codes accept that in many instances a detainee may prefer a friendly face, rather than a fully qualified stranger (ibid, p 29). The presence of a relative may help to expedite matters in the short term (the police can conclude their enquiries quickly and the suspect's detention period is reduced) but this may have important long term implications in relation to the admissibility or reliability of any confession made. It is therefore, incumbent upon all officers to ensure that a prospective AA is not contaminated in any way, and this should include acting as a prospective alibi.

One additional point is the extent to which these cases might be representative of police-suspect interviews generally. Unfortunately, there were only seven cases in this study, which is insufficient to allow generalisation of the findings to other stations or regions. Additionally, in the three intervention cases, it was noticeable that the suspects readily admitted their guilt and the internal dynamics for these three cases are therefore unlikely to be comparable with other samples, especially in cases where no confession is obtained or where a person, after a lengthy interview, eventually breaks down and confesses to something they have previously denied. Arguably, it is in these instances where the role of the AA might be considered to be of crucial importance. As

an example, in the one case in this study where the suspect denied the allegation, the climate of the interview degenerated into a hostile confrontation and the legal adviser and AA both remained silent, and took no action. The finding that the performance of the AA, in the four cases where evidence existed against the suspect, was not in accordance with the role envisaged under PACE is cause for some concern and warrants a much larger study in an area that up to now has been sadly neglected.

The final part of this section of the thesis will examine a number of explanatory variables, arising from this study, thought to be concerned with predicting the likelihood of a confession.

CHAPTER NINE

PREDICTING THE LIKELIHOOD OF A CONFESSION

9. 1. INTRODUCTION

The majority of people arrested and interviewed by the police make a confession or an admission (Pearse and Gudjonsson, 1996a).

Intriguingly, this finding is maintained despite a marked decrease in the number of manipulative and coercive tactics employed by the police and alongside an increase in the number of suspects receiving legal advice (Irving and McKenzie, 1989; Baldwin, 1993). A level of consistency has emerged in relation to the number of confessions made since the audio-taping of all police-suspect interviews became standard practice across England and Wales in 1992 (Stone's Justices' Manual, 1996, Vol I, p 885). Research suggests that confessions range from 55 per cent (Moston et al., 1993) to 62 per cent (Baldwin, 1993). Earlier in this thesis a confession rate of 58 per cent was reported, despite a marked decrease in interviewing tactics (Chapter Six) and the highest recorded figure for legal advisers present in a police interview (Chapter Seven).

Why then do suspects confess? In Part One of this thesis, the influence of individual factors (age, criminal history, type of offence) were considered, alongside a number of psychological models, some of which emphasise the interactive effect of a combination of variables. Abstracting the views of convicted offenders has confirmed the likelihood that this decision making process is likely to present as a multi-faceted phenomena, although for each suspect one particular group of factors will dominate, which tends to reflect how he perceives the strength of evidence against him (Gudjonsson and

Petursson, 1991; Gudjonsson and Bownes, 1992). It was one of the limitations of this research that it was not possible to elicit from the participating suspects the reasons for their decision to admit or deny the allegations against them. Despite this restriction, this particular data set represents a unique opportunity to examine the influence of a number of critical psychological characteristics on a suspect's decision making process.

The purpose of this chapter therefore is two-fold. In the first instance it is to specifically examine whether those suspects considered psychologically vulnerable were more likely to confess than their more robust counterparts. Studies have confirmed that suspects who are able to persistently deny any involvement in an offence (despite police interrogative pressure) score significantly lower on tests for suggestibility and compliance than suspects who have made (but later retract) a confession (Gudjonsson, 1984). These findings are replicated, even when groups are 'matched' according to age, sex, intelligence, memory and offence seriousness (Gudjonsson, 1991b). In such circumstances this sample will be analysed in two distinct groups: (1) vulnerable and non-vulnerable suspects, and (2) those that confess and those that deny. The second aim of this chapter is to identify any explanatory variables that may be associated with the likelihood of a suspect making a confession or a denial from within this sample population.

The main hypothesis under investigation is that vulnerable suspects are more likely to make a confession than their non-vulnerable counterparts (Gudjonsson, 1994b). There are also a number of other hypotheses generated from previous research:

- (ii) Younger suspects are more likely to confess than their older counterparts (Softley, 1980; Baldwin and McConville, 1980).
- (iii) Suspects who have legal advice will be less likely to make a confession (Moston et al., 1992).
- (iv) Suspects with a criminal record are less likely to make a confession than those suspects without a criminal history (Neubauer, 1974; Softley, 1980; Baldwin and McConville, 1980).

9.2. METHODOLOGY

Subjects

As noted earlier, although 160 assessments were initially undertaken not all could be completed (for full subject details see page 78).

Instruments and Procedure

In order to avoid any unnecessary delay to the suspects' detention, the clinical interview and psychological testing were limited to that which could be completed by most suspects within one hour. As a result of the assessments by the clinical psychologists (Gudjonsson, et al., 1993), it was possible to divide the sample into two groups: vulnerable suspects (n = 28) and non-vulnerable suspects (n = 132). In addition, the methodological distinctions drawn between a confession and an admission (full or part), discussed in Chapter Six, have now been collapsed into one variable 'confession'. This is consistent with the definition of a confession found in PACE, and "...includes any statement wholly or partly adverse to the person who made it," (Home Office, 1985a, Section 82 (1), Part viii).

A logistic regression analysis was employed to investigate whether some of the variables might independently predict a confession versus a denial. The use of logistic regression analysis is well established in clinical and psychiatric epidemiological studies (Dunn, 1981, 1982;

Everitt and Dunn, 1991) and more recently has been applied to statistical models seeking to predict offender characteristics (Aitken, Connolly, Gammerman, Zhang and Oldfield, 1995) or the criminal antecedents of the stranger rapist (Davies, Wittebrood and Jackson, 1997). This method seeks to develop a statistical model that relates the presence of certain explanatory variables to the odds of the suspect having a particular dependent variable, in this case making a confession. Accordingly, the results of the psychological assessments and clinical evaluations, together with the analysis of the interview tape(s), and the suspect's criminal history, were subjected to analysis using the 'Forward Logistic Regression' procedure on the SPSS (Windows) statistical programme (Norusis-SPSS Inc., 1994).

This particular process simply identifies and extracts the most significant explanatory variables from the variable list. The variables extracted by this procedure were also tested for pairwise interactions to examine whether the effect of one variable is dependent on, or is altered by, the value of another variable. It should be noted that those categorical (mental state) items that were rarely endorsed, or which occurred in fewer than 5 per cent of the cases, were excluded from the analysis. Such items included being withdrawn or angry during the clinical assessment, and presenting as intoxicated. Out of nineteen police interviewing tactics, only three were eventually analysed. Some of the tactics not commonly endorsed included manipulation of self-esteem, minimising responsibility or the consequences of the offence, and offering inducements or threats. These tactics had already been eliminated because they had either not been endorsed, or failed to occur in less than one per cent of the cases (see Chapter Six).

The following explanatory variables were subjected to analysis:

- Personal details including age, gender and ethnicity.
- Mental state prior to arrest. Self-report of crying, loss of appetite, feeling paranoid or suicidal and sleep disturbance. The only mental state condition from the clinical observation itself related to those suspects that presented as highly agitated.
- Self report of alcohol and illicit drug taking prior to arrest.
- Anxiety levels - both state and trait.
- Immediate and delayed verbal recall and suggestibility.
- Reading ability, prorated FSIQ and knowledge of legal rights.
- Clinician's recommendation for AA, and whether one was present.
- Police station and the presence or absence of a legal adviser.
- The suspect's criminal history, i.e., number of previous convictions and experience of prison.
- Three interview tactics: (i) officers introducing the evidence in the case, (ii) emphasising the serious nature of the offence and (iii) challenging a suspect, i.e., indicating that he or she is lying.

9.3. RESULTS

Tables 9. 1. and 9. 2. are arranged according to the nature of the data under examination. Thus continuous variables (age, memory and suggestibility scores) appear before the categoric data relating to the frequency with which a variable either was, or was not, present. Table 9. 1. provides the mean and standard deviation scores for the vulnerable and non-vulnerable groups in relation to the personal characteristics and case variables examined. The mean scores of the two groups were analysed using t-tests for independent samples (continuous variables) and Chi-square analysis (with Yates' Correction) was conducted in relation to the categoric data.

Table 9. 1. Differences between vulnerable and non-vulnerable groups

Explanatory Variables	Vulnerable Mean - S.D.		Non-vulnerable Mean - S.D.		Significance
Age	29.9	10.1	27.9	10.8	NS
Memory:					
Immediate recall***	7.7	4.7	12.5	6.6	t=4.4, p<0.001, 2 tail
Delayed recall***	6.4	4.0	11.6	6.5	t=5.3, p<0.001, 2 tail
Total suggestibility	11.6	6.6	9.5	5.8	NS
FSIQ*	77.6	10.5	83.7	12.5	t=2.59, p<0.05, 2 tail
Reading**	59.1	30.4	77.2	15.6	t=2.95, p<0.01, 2 tail
Anxiety State	52.5	13.5	54.1	13.6	NS
Trait*	49.4	14.0	41.7	11.4	t=2.54, p<0.05, 2 tail
Legal rights*	6.1	1.6	6.9	1.2	t=2.20, p<0.05, 2 tail
Criminal history:					
No. convictions	9	19	5.7	10.3	NS
Ethnic: (Caucasian - Non-Caucasian)	Cauc	Non-C	Cauc	Non-C	NS
Sex: (Male/Female)	M 25	F 3	M 109	F 23	NS
Mental State:(7days)	Present	Absent	Present	Absent	NS
Crying	8	20	20	112	NS
Sleep disturbance	15	12	46	86	NS
Feeling suicidal*	6	22	8	123	$\chi^2=4.9$, df=1, p<.05
Feeling low	16	12	53	79	NS
Off food*	11	17	21	110	$\chi^2=6.4$, df=1, p<.05
Feeling paranoid	9	19	21	111	NS
Agitated (observed)	7	21	13	119	NS
Drugs (last 24 hrs)	8	18	28	104	NS
Alcohol (last 24 hrs)	10	16	44	88	NS
Solicitor present	19	9	71	61	NS
Interview tactics					
Intro. evidence	20	8	98	34	NS
Serious offence	1	27	11	121	NS
Challenge lies	4	24	27	105	NS
Confession	14	14	79	53	NS
Case disposal:					
Plea (guilty)	10	4	46	26	NS
Convicted	14	14	55	77	NS
Criminal history:					
Prison experience	10	17	47	81	NS
Peckham and Orpington stations	P	O	P	O	Significance
	19	9	88	44	NS

(* sig, p<0.05: ** sig, p<0.01: ***sig, p<0.001)

The most significant differences between the groups related to memory (both delayed and immediate recall), as examined by the GSS - 2, followed by reading ability, prorated FSIQ, trait anxiety, and understanding of legal rights. Surprisingly, no difference between the two groups was found with regard to state anxiety. Significant differences were detected in relation to those suspects that reported feeling suicidal and having been off their food during the previous 7 days. There was no significant difference between the vulnerable and non-vulnerable groups in respect of making a confession. Of the 28 (18%) suspects classified as vulnerable, exactly half made a confession.

Table 9. 2. outlines the mean differences between the confessors and deniers.

Measure	Confessors	Deniers	t	p
Age	32	31	0.1	NS
Ethnic (Caucasian)	27	29	0.2	NS
Male/female	24/4	26/3	0.1	NS
Mental health	1	1	0.0	NS
State (7 days)	1	1	0.0	NS
Crying	18	12	1.2	NS
Sleeping badly	33	28	1.4	NS
Feeling suicidal	1	1	0.0	NS
Feeling low	1	1	0.0	NS
Off food	21	18	1.0	NS
Feeling paranoid	17	12	1.2	NS
Agitated (observed)	1	1	0.0	NS
Drugs (last 24 hrs)*	27	23	1.2	NS
Alcohol (last 24 hrs)	36	31	1.0	NS
Solicitor present***	40	32	1.7	NS
AA present	5	3	0.5	NS
Interview tactics				
Intro evidence	6	28	2.8	NS
Serious offence*	3	9	1.5	NS
Challenge lies	13	18	1.8	NS
Case disposal				
Plea** (guilty)	45	10	11	NS
Convicted*	47	16	22	NS
Criminal history:				
Prison experience**	25	65	32	NS
Peckham and	0	0	0	NS
Orlington stations	59	34	48	NS

(* sig. $p < 0.05$; ** sig. $p < 0.01$; *** sig. $p < 0.001$)

Table 9. 2. Differences between confessors and deniers

Explanatory Variables	Confessors Mean - S.D.		Deniers Mean - S.D.		Significance
Age*	27.1	10.8	30	10.2	$t=1.72, p<0.05, ,1\text{tail}$
Memory:					
Delayed recall	10.8	6.5	10.5	6.5	NS
Immediate Recall	11.6	6.7	11.8	6.4	NS
Total suggestibility	9.6	5.8	10.3	6.3	NS
FSIQ	82.4	12.2	83	12.8	NS
Reading	75.7	18.8	72	21.4	NS
Anxiety State	54.5	13.7	52.9	13.4	NS
Trait	43.4	12	42.1	12.4	NS
Legal rights	6.7	1.4	6.8	1.2	NS
Criminal history:					
No. convictions	4.5	7.5	4.3	5.2	NS
Ethnic: (Caucasian	Cauc	Non-C	Cauc	Non-C	NS
Non-Caucasian)	72	21	45	22	
Sex: (Male/Female)	M 77	F 16	M 57	F 10	NS
Mental State:(7days)	Present	Absent	Present	Absent	NS
Crying	19	74	9	58	
Sleeping badly	38	54	23	44	NS
Feeling suicidal	11	81	3	64	NS
Feeling low	45	48	24	43	NS
Off food	21	72	11	55	NS
Feeling paranoid	19	74	11	56	NS
Agitated (observed)	11	82	9	58	NS
Drugs (last 24 hrs)*	27	65	9	57	$\chi^2=4.5, df=1, p<.05$
Alcohol (last 24 hrs)	36	56	18	48	NS
Solicitor present***	40	53	50	17	$\chi^2=14.6, df=1, p<.0001$
AA present	5	88	3	64	NS
Interview tactics					
Intro evidence	65	28	28	14	NS
Serious offence*	3	90	9	58	$\chi^2=4.5, df=1, p<.05$
Challenge lies	13	80	18	49	NS
Case disposal:					
Plea*** (guilty)	45	10	11	20	$\chi^2=16.8, df=1, p<.0001$
Convicted*	47	46	22	45	$\chi^2=4.3, df=1, p<.05$
Criminal history:					
Prison experience**	25	65	32	33	$\chi^2=6.6, df=1, p<.01$
Peckham and	P	O	P	O	Significance
Orpington stations	59	34	48	19	NS

(* sig, $p<0.05$: ** sig, $p<0.01$: ***sig, $p<0.001$)

The results support the hypothesis that younger suspects are more likely to make a confession than older suspects, there is a significant mean age difference in the two groups of almost three years. There were no other significant differences noted in relation to the continuous variables, although a number of significant findings did emerge in relation to the categoric data. As one might expect, those suspects who confessed were also more likely to plead guilty and to be convicted of the offence. Interestingly, self report of the consumption of an illicit drug (in the previous 24 hours) was the only other variable that was significantly associated with making a confession. In keeping with earlier research, the presence of a legal adviser and criminal history were found to be significantly related to not making a confession and finally, the police tactic 'emphasising the serious nature of the offence' was more likely to be employed when the suspect was denying the allegation.

Table 9. 3. presents the results of the logistic regression analysis and includes the odds ratio, 95 per cent confidence interval and the significance level for each relevant variable.

Table 9. 3. Outcome of interview: likelihood of confession or denial

Variable	Odds ratio	CI (95%)	Sig
Drugs	3.37	1.36 - 8.32	.01
Prison	0.46	0.22 - 0.95	.05
Solicitor	0.26	0.12 - 0.54	.001

There were no significant pairwise interactions between these three variables. The results suggest that the odds of a suspect making a confession are more than three times greater if that suspect has reported using an illicit (non-prescribed) drug within the 24 hour period prior to arrest, compared with a suspect who claimed they had not

taken such a substance. Other factors that the model predicts as influential in determining the outcome of the interview are prison experience and the presence of a legal adviser. According to this model, the odds of a suspect not making a confession are almost four times greater for a suspect who has a legal adviser present compared with a suspect who does not have a legal adviser in the interview. The model also predicts that a suspect with experience of prison or custodial remand is at least half as likely not to make a confession compared with the suspect who had no such experience.

A jack-knife procedure (SAS/STAT, 1989) was employed to assess the predictive accuracy of the model. This procedure entails removing one case and fitting the model using data from the remaining (N-1) cases to predict the outcome of the excluded case. This procedure is then replicated for every case in the data set and the outcome of all the individual tests are combined to provide an unbiased assessment of performance, which in this case amounted to 68.2 per cent as the overall probability for a correct prediction. This finding is identical to that predicted in the original analysis using the 'Forward Logistic Regression' procedure which is particularly encouraging as it lends weight to the accuracy and generalisability of the original model. Of the eight probabilities predicted by the model, the smallest probability of confession (where a legal adviser was present, where the suspect had some prison experience and had not recently taken an illicit drug) was found to be 28 per cent. On the other hand, the largest probability of confession was found to be 92 per cent, where no legal adviser was present, and the suspect had recently taken drugs and did not have any prison experience.

9. 4. DISCUSSION

There was no evidence from this study to support our main hypothesis that those suspects considered vulnerable were more likely to confess than their more robust counterparts. To some degree this may relate to the relatively small sample size ($N=160$), but it might also reflect the type of offences under investigation and the nature of the police interviews. As was noted earlier, the cases in this study were general, run of the mill cases which produced very little interaction between the suspect and interviewing officers or indeed, any third party (legal adviser, AA), with the result that confessions appeared to be made despite the tactics used, rather than because of them. This lack of interaction is also reflected in two other findings. First, a mere three police tactics (from an original total of nineteen) were sufficiently common to be analysed. Secondly, the confessions were typically made early on in the interview. This latter finding suggests that suspects had made their minds up prior to the interview whether to admit or deny the offence and were able to maintain this stance throughout. It may be that in these run of the mill examples, psychological vulnerabilities, such as heightened suggestibility or limited intellectual capacity, are not important in determining whether or not suspects confess, mainly because very little pressure is actually placed on them in the interview itself. Those cases where such characteristics have proved influential have tended to be of a more serious nature where the suspect has been subjected to a prolonged and concentrated period of challenging interrogation by the police (Gudjonsson, 1992a).

A significant difference was found between the two groups in terms of their knowledge of legal rights (Table 9. 1.). In particular, it would appear that question number 7 posed the most difficulty in terms of comprehension ("If you say anything to the police, do you have to tell

them the truth?"). This raises a number of concerns; not least in relation to the wisdom of the suspect's initial decision-making capability when advised of their legal rights on their arrival at the police station. A more detailed investigation of the vulnerable group shows that 19 (70%) actually had a legal adviser present during the police interview. It may be the case that such an influential third party was able to provide advice in respect of admission or denial and that their presence served to provide valuable support both physically and psychologically, to enable the suspects to maintain their chosen stance (confess or otherwise) throughout the interview.

It remains the case, however, that nearly one third of this vulnerable group chose not to have legal advice and this decision may have been made because they did not initially fully understand their rights (see Pearse and Gudjonsson, 1996e). This is clearly an important finding and may have implications for future police practice in relation to the delivery and service of a suspect's rights. In a progressive initiative, the Metropolitan Police Service in London are introducing a series of mandatory questions for all detainees which place some of the onus of identification onto the suspects themselves (as recommended by Clare and Gudjonsson, 1992a). A pilot study suggests that these questions increase the identification of vulnerability by 100%, although the extent of identification remains rather small (Clare, Jarman and Gudjonsson, in preparation). The current findings reinforce the suggestion that, where identified, vulnerable suspects should be positively encouraged to seek the services of the duty solicitor (Pearse and Gudjonsson, 1996c, e).

The second part of this study was concerned with identifying factors which might be used to predict the outcome of the police interview in

terms of a confession or denial. The finding that prison experience and the presence of a legal adviser are likely to increase the odds of a person denying an allegation tend to confirm previous research and are in line with our earlier hypotheses. Moston et al (1992), for example, found that 'full admissions' dropped by about 20 per cent given contact with a legal adviser and also reported that the rate of admissions differed depending on whether or not the suspect had previous convictions. In this study, however, the model has provided an explanatory variable, 'prison experience', that is more discriminating than the presence or number of convictions. This model suggests that what needs to be considered is *experience of custody*, on remand or following conviction, rather than *convictions per se*. It may be that the application of 'custodial experience' to other studies would resolve the conflicting reports of the effects of conviction on confession. In the majority of cases, personal experience of a period of incarceration will serve to reinforce the long term consequences of making a confession, especially in serious cases.

However, the most intriguing finding remains the impact of illicit drug use within the previous 24 hour period. A substantial proportion of the suspects (36 - 23%) admitted using illicit drugs (mainly smoking cannabis or taking heroin or methadone) and in the clinical interview 12 suspects (7%) appeared to be under the influence of drugs. The question is to what extent did this interfere with their functioning or coping ability during the police interview? Robertson (1992), for example, reported that 1 in 6 drug related referrals in London were unfit to be interviewed. One clinical consideration must be that a suspect's perception of events (strength of evidence, case severity) may have been impaired and that if this was combined with a desire to get out of the station (escape further questioning or satisfy addiction) then rational thought

processes may have been compromised, leading to a confession. In a recent Icelandic study of 359 serving prisoners, 54 offenders (15%) claimed to have been under the influence of drugs (predominately cannabis) during the police interview (Sigurdsson and Gudjonsson, 1994). The prisoners reported feeling confused, although this did not increase their level of anxiety or make them feel they were not coping; nor did it apparently influence their reasons for making a confession. This suggests that the integrity of the outcome remains intact. However, withdrawal from opiates has been found to be associated with heightened suggestibility (Murakami, Edelman, and Davis, 1996) and it may, under certain circumstances, result in suspects making a false confession (Gudjonsson, 1992a).

In this sample, however, there would appear to be no evidence to challenge the reliability or admissibility of any confession made. For example, drug users were not over-represented in the vulnerable group compared with non-drug users and 23 of the drug cases (66%) had a legal adviser present in the police interview. There remains a distinct possibility that the drug users elected to admit to the allegations against them in order to expedite their removal from custody to pursue their own needs. This predicament can be explained in terms of the Gudjonsson Model outlined earlier (Chapter Four), where the aroused physical state (withdrawal) forms an important part of the 'antecedents' that impact upon the suspect's decision making process when considering the 'consequences' of his or her actions, which may be immediate (release) or long term (satisfying addiction).

A legal insight, touching on the motivations behind the confession process, provided in the case of *Rennie [1982] 74 Cr. App. R. 207*, seems appropriate in this instance. The Lord Chief Justice commented that,

"Very few confessions are inspired solely by remorse. Often the motives of an accused are mixed and include a hope that an early admission may lead to an earlier release or a lighter sentence..... In some cases the hope may be self generated. If so, it is irrelevant, even if it provides the dominant motive for making the confession.... There can be few prisoners who are being firmly but fairly questioned in a police station to whom it does not occur that they might be able to bring both their interrogation and their detention to an earlier end by confession."

As this judgement suggests, the mere fact that a person is withdrawing, and may have a motive for making a confession, does not mean that the confession is necessarily unreliable. In a recent Court of Appeal judgement, it was held that a confession made whilst withdrawing from the symptoms of heroin addiction need not be considered unreliable, solely on those grounds, *R. v. Crampton* [1991] 92 CR. App. R. 369.

The results indicate that there are likely to be a number of reasons why a suspect makes a confession and it is not safe to assume that the mere presence of psychological vulnerabilities, on their own, will predispose a person to confess to a crime. Finally, the findings highlight the need for future research on, (i) the specific effects of drugs and drug withdrawal on the behaviour of detainees in the police interview and (ii) the decision making process of suspects and the relevance of psychological vulnerabilities in serious criminal cases. In the final part of this thesis a detailed examination will be made of the special dynamics that are associated with serious criminal cases.

**POLICE INTERVIEWING: AN EXAMINATION OF
SOME OF THE PSYCHOLOGICAL, INTERROGATIVE
AND BACKGROUND FACTORS THAT ARE
ASSOCIATED WITH A SUSPECT'S CONFESSION**

PART THREE - A DEDICATION

**I DEDICATE THIS UNIQUE FRAMEWORK TO A
UNIQUE LADY.**

IMPLOSIVE ❧ SOMETIMES

IRRATIONAL ❧ MAYBE

INSPIRATIONAL ❧ ALWAYS

MAR IS OIRUÍNACH DO BHANRÍON EIREANNACH

PART THREE - AN EXAMINATION OF TWENTY SERIOUS CRIMINAL CASES

INTRODUCTION

This study has moved inexorably towards an examination of serious criminal cases. The influence of this particular factor appears to be quite substantial, with significant findings reported in relation to most aspects of the police-suspect interview. These include: the use of the right to silence (Moston et al., 1993), interviewing strategies, suspect behaviour and outcome (Irving and McKenzie, 1989; Gudjonsson, 1992a; Moston et al., 1992) and requests for legal advice (Baldwin and McConville, 1979; Sanders et al., 1989). One has only to consider the likely consequences attached to a confession in a murder case compared with those in a minor theft charge to appreciate the increased pressure and demands that are brought to bear, not only on the suspect, but crucially, also upon the motivations and perceptions of the interviewing officers (Irving and McKenzie, 1989; Gudjonsson, 1992a; Moston et al., 1992). It was Softley (1980) who lamented the dearth of serious criminal cases in his own study, and who speculated that:

"It is perhaps in relation to such crimes that the pressures on police to bring offenders to justice are normally strongest." (ibid p 11).

The fact that judgements emanating from the Court of Appeal primarily concern a scrutiny of what has taken place in serious criminal case is a testament to the powerful dynamics generated within this rather taut and coercive environment (Gudjonsson, 1992a; Gudjonsson and MacKeith, 1994; Collins, 1995; Corre, 1995).

In working towards establishing a suitable framework to identify, analyse and measure interviewing tactics employed by the police, the purpose of this final section will be to conduct an in-depth examination of the number and type of tactics employed in this restricted category of cases. 20 serious criminal cases have been assembled in relation to offences that include murder, rape, arson and armed robbery. In Chapter Ten the methodological issues attached to such an investigation will be outlined. It is proposed to examine, exactly what is said or done in every five minute segment, of every interview, in order to capture the minutiae of the interaction. Chapter Eleven will present the results of this examination and Chapter Twelve will discuss these findings, including the Heron murder case where the available legal judgement has been adapted to help provide a suitable framework for future use. Chapter Thirteen will draw the entire thesis to a conclusion.

CHAPTER TEN

METHODOLOGY

10. 1. SUBJECTS

The 20 cases in this section had to fulfil the following criteria.

- All suspects had to be detained for a serious criminal offence.
- All suspects had to be interviewed on audio-tape for the offence.
- A psychological assessment had to be prepared on each individual.
- A typed transcript of the entire interview had to be available.
- All suspects had to initially deny the allegation against them, and then on audio-tape, change their mind and make a confession.
- It was not acceptable for the confession to be made following a distinct break in the interview procedure, e.g., after a night's rest, after a lunch break, or on their return from a visit to the scene.

This final stipulation ensured that it was possible to capture the actual confession process: in other words, identifying, in controlled conditions, what was taking place leading up to and immediately before a confession was made. This requirement proved very difficult to comply with as there are few instances where people are persuaded to change their mind during the course of a police-suspect interview (Baldwin, 1993; Moston et al., 1992).

What is meant by a serious criminal case? This thesis has adopted the definition of a serious arrestable offence, under section 116 of PACE, which divides such offences into two categories. The first category, contains those offences "... that are so serious that they would always be serious arrestable offences.." (Zander, 1985, p152) which include murder, rape, arson, armed robbery and blackmail (s116(2)(a)). In the

second category, other offences are only considered serious if their commission has led, or is likely to lead, to any one of six possible consequences: (a) serious harm to the security of the State, (b) interference with the administration of justice, (c) the death of someone, (d) serious injury, (e) substantial financial gain, or (f) serious financial loss (s116(6) and Schedule 5). 19 of the cases in this part of the study fall into the first category and one case comes under s116(6)(b) above.

The 20 cases in this sample were drawn from the files of two clinical forensic psychologists. A total of 19 files were obtained from Dr. Gisli Gudjonsson's records and one case was supplied by Sue Rutter, both of whom are employed at the Institute of Psychiatry, King's College, London (the original instruction may have been on behalf of the prosecution or the defence). The present author was not concerned at any stage in the production of these assessments and reference was not made to their contents until after the analysis of the interview had taken place. A full summary of these 20 cases is provided at pages 220 - 222.

10. 2. PROCEDURE

In the majority of cases, witness statements and prosecution summaries were available. These, together with any other relevant papers, were studied in order to appraise the author of the circumstances and evidence in each case. Each individual tape of interview was divided into five minute compartments. This figure was chosen as it represented a manageable frame of reference to study individual sections of the interaction. A ten minute window was found to be too extensive, and experimenting with shorter time scales (such as one or two minutes) proved impractical. In the first instance, the author would listen to the

tape and compare it with the typed transcript. Any alterations or amendments that were required to be made to the transcript, were inserted at this stage and each five minute section was also noted on the manuscript. In some cases where this five minute demarcation fell in the middle of a question or answer, the most appropriate position was selected, often dictated by the length of that specific dialogue. Questions and answers were not separated. In other words, if the five minute mark fell in the middle of a question, the end of the segment would be inserted, either before the question or after the answer to it; it would not separate the pair. Occasionally, some police questioning was so verbose it extended over a number of pages, and in these cases the five minute segment was inserted at a natural pause.

To establish a reliable measurement of time, the author employed a digital audio-tape transcriber which provided an enhanced audio facility and an encoded digital time display. This unit was employed to measure the duration of each interview for all 20 cases. The start of each interview was taken from the moment a person was heard to speak on the tape, and the conclusion was the point at which all parties finished speaking. Thus, by reading the available evidence, listening to the tape and correcting the transcript, the author acquired a valuable insight into the history, nature and circumstances of each case. It was only at this stage, that the author was in a position to analyse and code every five minute segment, by re-listening to the tape(s) and making full use of the manuscript copy.

The coding procedure was greatly influenced by the experience and difficulties encountered in Part Two. The coding frame created for the initial study was drawn up following a review of the literature and a field trial at a separate police station.

As an instrument, it was designed to capture the presence (or absence) of a particular tactic during the taped interview. The end result however, merely recorded whether a specific tactic was, or was not used, on that particular tape. So for an interview that lasted 90 minutes (3 x 30 minute tapes) a particular tactic could only be classified on a maximum of three occasions. This was clearly not satisfactory. This process lacked the capacity to fully discriminate amongst the range of possible tactics and also within a specific category of tactics. In other words reference to the initial coding frame will only tell the reader that, for example, the tactic 'uses threats' was (or was not) present. It would not reveal the extent to which it was used (frequency), the timing and degree of its use (intensity) or the context within which it was introduced (i.e., the accompanying tactics and suspect's reactions).

The second coding frame was designed to address these deficiencies and therefore on every occasion that a tactic, or suspect's response, was present (in a segment) it was noted on the coding frame. As this thesis is concerned with the process leading up to a confession, all coding ceased once a confession was made (the exception to this was in the Heron and Miller cases where the interviews were coded in their entirety given the legal importance of these cases). A copy of this entire coding frame, which includes a detailed description of each variable, is attached for information at Appendix Two, pages A2/1 -11 refer. The coding frame consists of five distinct sections and it is proposed to utilise these five sections to elaborate upon the procedure adopted for this stage of the study.

10. 3. CODING FRAME 1 - TAPE DETAILS

This coding frame was designed to record:

- the duration of each tape of interview, together with the cumulative time and 24 hour reference;
- details of audible legal entitlements;
- number of police officers and other parties present;
- an evaluation of the performance of the legal adviser and AA, and
- a scrutiny of any disruption or break in the sequence of interviews.

Categorising the intervention of a third party

In this study the evaluation of the performance of the legal adviser or AA led to the award of a positive or negative value. The first question addressed was, did the legal adviser or AA intervene? Any intervention was then analysed according to whether or not it conformed to the role of the legal adviser, or AA (as outlined in the Codes). Where no intervention took place the question that needed to be asked was, should an intervention have been made? Some examples may help to clarify the situation.

In one case the suspect is interviewed in relation to an allegation of buggery. On tape he appears slow and inarticulate, and he has a stammer. He is 32 years of age. Very early on the officer is attempting to determine the extent to which the suspect understands the meaning of the word - buggery.

The suspect has already indicated that

"It's a sexual assault on a person.",

but the officer seeks to pursue his level of understanding a little further and asks,

"Can you go into it a little bit more - the word buggery - it's important that you understand what the allegation is."

The suspect stammers,

"No....no....no comment."

Officer, ".... does that mean that you don't know what it means or that you don't want to answer the question?"

At this stage the legal adviser (shown on the transcript as a solicitor's clerk) intervenes,

"I think he's aware of what it means."

The officer's next question is directed at the legal adviser,

"You're happy with that are you?"

She replies,

"Yeh."

A negative coding was given in this case as the Codes state:

"Examples of unacceptable conduct include answering questions on a suspect's behalf....." (ibid, 1995, Note 6D).

In addition, the question of the suspect's intellectual capacity and level of suggestibility was highly relevant in this case.

The second case concerns another allegation of buggery where the suspect is a 54 year old man and a solicitor is present. The officer introduces medical evidence which he asserts,

"will corroborate ...allegations about sexual acts that you've performed upon him."

The solicitor intervenes,

" I think the only corroboration is that sexual acts were performed, not necessarily by [my client]".

This was one of a number of examples where the intervention of this legal adviser received a positive endorsement on the coding frame. Where quotations are taken from the manuscript, for economy, it will not always be necessary to reproduce the entire sentence or paragraph(s). Abridged versions will be denoted by a spacing format, thus Also, on this point, the present author will remain faithful to the punctuation, grammar, spelling and assorted vagaries of the

original manuscript. The only changes inserted will be actual corrections, where the spoken word has not been reproduced correctly or has been omitted).

In cases where the legal adviser or AA entered into the investigative process, questioning the suspect or making prosecution orientated assertions, a negative endorsement was applied and the comments were also classified as 'interviewing tactics'. Finally, this coding frame sought to determine whether there was any evidence of any previous 'unofficial' conversation with the suspect (McConville et al., 1991; Moston and Stephenson, 1993a, b). Where there was an indication that any exchanges had taken place, it was important to ascertain who was party to them and whether they were openly discussed, in order to assess their influence or likely effect.

For full details of this section of the coding frame please see Appendix Two, pages A2/1 - 2 refer.

10. 4. CODING FRAME 2 - INTERVIEW TACTICS

A number of typologies have been provided in the literature to help identify and categorise the large number of possible interviewing tactics. Kalbfleisch (1994) for example, presents a fifteen part typology, whilst Kassin and McNall (1991) provided a two-tier 'maximisation' and 'minimisation' approach (although this was specifically designed to interpret the Inbau, Reid and Buckley Model (1986)). Research for this thesis found that the Kalbfleisch categorisation proved unwieldy, with too many strategies, whilst the latter proved unable adequately to discriminate between all the tactics used. A separate typology is presented here which is based on a subjective assessment of the

tactics employed in these 20 serious cases. This typology is composed of three distinct categories:

- **Delivery,**
- **Maximisation, and**
- **Manipulation.**

They have been formulated on the basis of the theoretical models and literature reviewed earlier in this thesis, and as a result of the present author's analysis of the cases. Membership of this particular typology, therefore, represents a purely subjective interpretation of this unique data set and the extent to which they may prove relevant to other criminal cases (serious or otherwise) is unknown at this stage. A total of 39 tactic variables were employed.

Delivery. This category concerns the type of questions asked and 'how' the questions are put i.e., the manner in which they are delivered or the context of that delivery. A total of twelve variables contributed to this category. There were three types of questions; 'open', 'closed' or 'leading'. An open question is often an invitation for the suspect to provide his account of events ('Tell us what you were doing then, today?'). A closed question is one that can be answered in a few words ('How did you get there, did you walk or cycle?'). A leading question is one that is 'loaded' or implies the answer the interviewer wants to hear ('You're not a violent person are you?' Richardson, Dohrenwend and Klein, 1965; Gudjonsson, 1992a).

The context in which questions are put is also very important. Dialogue may take place in 'hushed or lowered tones' (as recommended by Inbau et al. (1986) when dealing with emotional suspects) or at the other end of the spectrum, questioning may take place in a hostile and intimidating environment, with the officers using a 'raised or

aggressive tone', continually 'interrupting' the suspect and refusing to listen to their answers, and perhaps 'swearing' at the suspect.

This category also caters for 'multiple questions' and 'multiple officers'. The latter relates to both officers asking questions one after the other, without an opportunity for the suspect to reply, whilst in the former, one officer might introduce a particularly long sentence that contains 'multiple questions' or 'multiple assertions' (here multiple is defined as more than two). Some officers also tend to repeat a suspect's response or the last few words of the reply. In some instances this can act as a prompt for the suspect to continue, but mindless repetition of replies, or 'echoing', as it is known, is not recommended (CPTU, 1992b). Finally, this section includes the tactic, 'the use of silences'. According to the national guidelines for police interviewers,

"..... silence can be a powerful tool to prompt an interviewee to speak. After a question has been put to a person who is reluctant to answer, or after receiving a reply which you want elaborating, consider remaining silent." (CPTU, 1992b, p 57).

This variable was taken as any period of silence that exceeded nine seconds in length (measured by the digital encoder). In the opinion of the present author such a period (10 seconds or more) exceeds the bounds of conventional conversational etiquette and enters the realm of the 'powerful tool' noted above. This tactic was commonly found after an officer had asked a question, but there were also instances where periods of silence were allowed to develop after a question had been answered.

Maximisation. According to Kassin and McNall (1991) maximisation represents " ... a hard sell technique in which the interrogator tries to

scare and intimidate the suspect into confessing by making false claims about evidence and exaggerating the seriousness and the magnitude of the charges." (ibid, p 234). In this study the term is extended to include any technique which would tend to increase a suspect's internal anxiety (already accentuated as a result of failing to admit the allegation - Inbau et al., 1986) and any form of intimidation or challenge directed at the suspect, such as the threat of continued detention. There were fourteen such tactics identified in this sample.

Instances where the officers categorically emphasised the serious nature of the offence under investigation (e.g., murder) or the mental torment that denial would bring represented obvious examples of 'maximising the serious nature of the offence' and 'maximising anxiety', respectively. Similarly, 'threats', direct or implied, were also readily categorised. The 'accusatorial' or direct approach identified by Moston and Stephenson (1993b) is included in this sample where the suspect is 'confronted at the outset with the allegation'. This was often followed up with the 'introduction of evidence', or more indirectly, the introduction of 'implied evidence', where the officers declined to be specific about the extent or exact nature of the evidence. Exposure to such evidence was designed to overcome the futility of denial (Irving, 1980) and to increase the pressure and anxiety on the suspect. Such continued pressure was also maintained where the officer made a direct 'appeal' to the suspect's conscience or perhaps his good character.

The largest group of tactics in this category fell under the heading of 'challenges'. These included challenges in relation to the suspect's 'previous convictions', possible 'accomplices', 'contradictions' in his story or in relation to 'witness information', or challenges that the

suspect's replies were simply 'not believable'. Instances where the officers called the suspect a 'liar' would fall into this section and it was noticeable that on occasions a 'pantomime' sequence would develop with the suspect content to deny every challenge (e.g., you're a liar - no I'm not, et seq. Three or more repetitions represented a pantomime sequence).

Finally, it was evident from the judgements provided in *R. v. Paris and others* and *R. v. Heron* (see Chapter One), that the continued and persistent challenges and verbal assaults on the veracity of the suspect's replies had a marked and deleterious effect on the defendant's willpower and resistance. These judgements concluded that this relentless refusal to entertain the suspect's point of view was bound to undermine the most resolute of defendants. To capture this somewhat latent technique a 'continual dispute' variable was introduced to itemise every instance where the officers directly or indirectly challenged, contradicted or undermined the substance of the suspect's account. So, where officers challenged the suspect's account as not believable, this was recorded as a 'challenge' and a 'continual dispute' tactic to make it possible to accurately gauge the totality of this behaviour at the conclusion of the interview process.

This all enveloping tactic 'continual dispute', serves as a good example of the manner in which the coding frames evolved over time and of the constant need to monitor what was taking place and where necessary, to alter, add or make subtle changes. This particular tactic was one of a number that was not included at the outset and therefore, when it was adopted, it was necessary to go back and re-analyse all the previous tapes and include the new variable. In every respect, this was a learning process (and continues to be).

Manipulation. The debilitating effect on a suspect's resolve of physical isolation and confinement, especially when coupled with aggressive and intimidating interviewing tactics was recognised by Lord Chief Justice Taylor, in *R. v. Paris and others* ([1993] 97 Cr. App. R. 99). It was noticeable however, that these tactics did not, on their own, succeed in eliciting a confession. This was achieved in a subsequent interview by more "insidious questioning" (ibid, p 104). In that case the officers persuaded the suspect to admit that it was possible he was at the scene, even if he could not remember it, and as the judgement noted, "Once he opened that chink, the officers kept up the questioning to open it further." (ibid, p 104). Such questioning involves creating possible 'scenarios' or 'themes' for the suspect to adopt, which might lull him into a false sense of security or get him to make a minor admission that can be built upon. This is a classic example of manipulation, and in this study there were thirteen variations of this strategy.

The tactic 'manipulate details' involved officers embellishing a particular witness statement or ignoring significant details.

'Manipulating self-esteem' was an attack on the person's emotional well-being or stature, for example 'What sort of man are you?'.

Minimisation techniques were also included in this category where the officers 'minimised the serious nature of the offence', or the 'suspect's responsibility' for it. In some circumstances the part played by the victim or a significant 'third party' was emphasised, manipulated or used; all established face-saving excuses (Inbau et al., 1986). On some occasions the officers offered some form of help or 'inducement' if the suspect confessed, and it was not uncommon for officers to resort to 'flattery' or offers of 'reassurance', and at other times to impress upon

the suspect their considerable 'experience' to gain an admission or that elusive 'chink' in the suspect's story. The benefits that might befall a suspect who confessed were also mentioned as 'interest to confess'. A more detailed description of each tactic in this section is provided at Appendix Two on pages A2/3 - 6.

10. 5. CODING FRAME 3 - SUSPECT RESPONSES

Inbau, Reid and Buckley (1986) elevate the importance of direct observation and the evaluation of behavioural symptoms throughout the interview process (this may well reflect the influence of the behaviourist approach that had been so dominant in the United States). However, Farr (1982) makes the important point that,

"Psychologists, when they accepted behaviourism, came to value what they could see and measure over what they could hear. It was only too easy to overlook the significance of something as invisible to the human eye as speech." (ibid, p 190).

The first indication of the impact of various interview tactics will often be the verbal responses of the interviewee, and the importance of such variables cannot be under-estimated. In relation to this rather selective sample of serious criminal cases a further typology is proffered for suspect responses, again based on a subjective interpretation by the author and drawn from the relevant literature already reviewed. There are six response groups in this study and the categories are designed to reflect a neutral and non-judgmental approach on the part of the author. A total of 33 response variables were employed.

Positive responses. The bulk of this category constituted remarks that 'agreed with', 'accepted' or 'acceded' to any question or suggestion made. In more general terms this category also included where the

suspect was openly providing an 'account' of events, perhaps an 'alibi' or extensive 'free narrative account'. In a few cases a suspect might agree to a question or suggestion but would then go on to 'introduce a qualification' to that answer. The distinction between a 'confession' and an 'admission' (see Chapters Six and Nine) was maintained. It was often the case that an admission (without the element of intent) was made prior to a confession. Confessions or admissions could also be 'made for another party' i.e., an accomplice.

Negative responses. These related to 'denials' by the suspect or instances where he 'disputed' an account or 'declined' to agree to a remark. This section also included a 'challenging response' where the suspect identified or perceived an inference that was implied within the body of the question, and which he was not prepared to accept. The 'right to silence' (full or part) was included, but was very rarely invoked in this sample. A more common response was for the suspect to volunteer that he 'couldn't remember' and very occasionally a 'no reply' was entered, where perhaps the suspect did not have time to answer, as opposed to exercising his right to silence. 'Withdraws a confession' was also included in this category.

Information or Knowledge. During the course of an interview a suspect might seek 'additional information' from the officer to clarify an issue or he might ask for specific information in relation to 'early release' or the likely 'disposal route' for his particular predicament. This category also included where the suspect asked the officer to 'repeat' the question.

Rationalisation. In this section the suspect might 'minimise the offence' or his 'responsibility' for it. This would also include where the suspect 'accepted a scenario or theme' that might have been suggested by

the officers or where the suspect 'provides a motive or reason' for the offence.

Projection. These include references by the suspect who might apportion 'blame' to some other party or the victim.

Emotional responses. The suspect may sound 'distressed' or 'cry', and complain of feeling 'tired or low'. This may coincide with a period of 'self-blame or remorse' and their speech pattern may give some indication that they are 'confused', perhaps they do not understand a straightforward question, or they show signs of a 'lack of orientation'. They become 'abusive or angry' and 'raise their voice', or they may 'seek assistance'. A combination of some of these responses may be indicative of a 'psychologically vulnerable' individual.

A detailed account of these individual responses can be found at Appendix Two on pages A2/7 - 8.

10. 6. CODING FRAME 4 - INTERVIEW EVALUATION

The purpose of this instrument was to record relevant details in relation to the manner and general performance of the police officers conducting the interview. It was designed to capture the structure and component parts of each interview and the final evaluation was made on the basis (or lack) of skills and qualities exhibited. The framework employed for this task was the national police interviewing model, 'PEACE'. Accordingly, the first section of the coding frame examines the extent to which the officers have 'prepared' for the interview, and secondly, how successful they are at the 'engage and explain' section, which involves establishing a relationship with the interviewee and fully explaining the purpose of the interaction. This is followed by

the 'account, clarification and challenge' section, which is essentially the forum for introducing evidence and clarifying any inconsistencies, prior to bringing the interview to a 'close'. Within these compartments the author has attempted to remain faithful to the guidance for interviewing officers outlined in the initial and the revised interviewing manuals (CPTU, 1992a, b; National Crime Faculty, 1996).

The final section, 'evaluation', represents a subjective assessment of the extent to which the interviewing officers (or teams of officers) were successful in implementing the national model and the manner in which they attempted to achieve this aim. This has been measured on the following four dimensions: 'Open', 'Skilful', 'Manipulative' and 'Forceful'. A 'Likert' scale was employed to measure these constructs (in terms of both frequency and intensity) which ranged from 1 (not at all) to 4 (very often, very much). This evaluation was conducted for each tape and a final over-arching judgement was made at the conclusion of the interview sessions. The evaluation was essentially a question of intensity and frequency and it will be seen that an interviewer could score highly on an undesirable dimension, such as forceful or manipulative, yet achieve a complementary high rating for skill. A detailed account of the individual sections of this particular coding frame can be found at Appendix Two on pages A2/ 9 - 10.

10. 7. CODING FRAME 5 - PERSONAL CHARACTERISTICS

This final coding frame catered for the personal details of the suspect (gender, age and ethnicity) and also recorded the year of the interview and the type of offence under investigation. Psychological details (I. Q. and suggestibility scores) were also entered. Unfortunately, the nature and extent of psychological details obtained for each

suspect was not consistent and this has limited the opportunity to compare each case in this particular sample. It was possible to obtain the FSIQ score in each case and some indication of the suspect's interrogative suggestibility. Some comparison between cases is therefore possible, although the limitations are acknowledged. The final part of this coding frame also examined the outcome of the cases in terms of disposal, conviction and pleas. A copy of this section of the coding frame can be found at Appendix Two on page A2/11.

10. 8. METHODOLOGICAL ISSUES: STRENGTHS AND LIMITATIONS

In many respects the research undertaken for the final section of this thesis was unique. It was the first time that the minutiae of police interviewing tactics and suspect responses, across a wide range of cases, has been subjected to such a detailed scrutiny in an empirical study. The sample itself, composed as it was of a selective group of serious criminal cases that met the most stringent of selection criteria, was also unique. As far as the present author is concerned, it was also the first time that the dynamics of the police interview have been subjected to a statistical analysis and depicted in graphic form. Given the original nature of the research it is perhaps not surprising that issues exposing both strengths and weaknesses would emerge within the chosen methodology. One of the strengths of the present research was the depth of available source material. Previous research has tended to rely on observational data (Irving, 1980; Softley, 1980), self-report measures (Williamson, 1990) or video and audio-tape recordings (Baldwin, 1992a, 1993; Moston et al., 1992, 1993). In the present research the author has been fortunate to be able to draw not only on the written text of interview and the audio-tape recording, but also case details and psychological profiles of each suspect.

Possibly the most valuable contribution to the analysis of the police interviews was provided by the availability of both the written transcript and the audio-tape recording. An accurate transcript provided a stable foundation and most importantly the time and space to investigate and analyse each segment in detail. The audio-tape, first of all provided the means to authenticate the transcript (allowing for reproductive quality) and also provided a contemporaneous audio 'insight' into what actually took place in the police interview. The audio-tape illuminated the pauses and silences between the parties. It also often made it possible to determine the stress or intonation placed on a question or answer, as well as reproducing the pace and climate of the interview. For example, whether the interview was conducted in a hostile or intimidating manner with raised voices from the police officers, who might bombard the suspect with repeated questions and frequent interruptions. On the other hand, it also reflected the quiet or softer approach, adopted in some instances. In very many cases such sequences, whether intimidating and aggressive or gentle and compassionate, could not be ascertained from the transcript alone. Similarly, the responses or emotions of the suspect (crying, sniffing, angry outbursts) or other idiosyncratic behaviour (stammer, inarticulate responses) would not be obvious from the transcript in isolation. In many respects the transcript provided in 'black and white' a limited account of events. It required the addition of the audio-tape to inject dimension and 'colour' into the proceedings.

The simple expedient of checking the typed transcript with the audio-tape recording cannot be overlooked, for without exception, discrepancies were unearthed. In a number of the cases these were major errors which if left unremedied would represent a serious example of misrepresentation. It is not possible to detail all the

examples in this thesis but the errors would commonly entail the misattribution or omission of key words or behavioural responses, the addition of words not spoken and even entire tracts not transcribed. One example may serve to illuminate this problem. In this case the suspect was being interviewed for rape. The original typed transcript from the case papers, reads:

Officer 'The fact is that something clicks when she's in your company, you start interfering with her?'

Suspect 'No'

Officer 'Don't ya?'

Suspect 'No'.

The suspect actually responds 'Yeh', to both questions. A little after this the typed transcript reads,

Officer 'Did you ever touch their private parts?'

Suspect 'Yes'

To this allegation the suspect actually replied 'No'.

This was one of many examples where the written word did not reflect what was said and unfortunately, it was not possible to determine the final 'court' condition of all the transcripts in this sample and whether or not they were entered in evidence.

Despite the advantages that can accrue from an analysis conducted with the benefit of the two mediums, it remains important to appreciate that there may also be limitations attached to such a design. In general terms, there are two immediate issues to be considered when employing such a reductionist approach. The first, is that reducing speech or any conversation to isolated, clinical terminology is likely to strip away much of the rich and powerful social fabric of what is an inherently social interaction, an issue previously addressed in Chapter Six (Farr, 1982). The second issue concerns the

importance of the overall context of each case. Throughout this thesis, the need to appreciate the value of the context has been repeatedly stressed (whether in relation to the context that individual cases have to be considered within the law (PACE - Chapter One) or in relation to possible psychological vulnerabilities of individual suspects within each case (Chapter Three). In methodological terms, it is acceptable for the researcher to dive into the reductionist pool, provided he (or she) returns to the surface and incorporates, and remains mindful of, the full context in which the research takes place. Failure to 'come up for air' might prove disastrous.

In relation to more specific issues, Shuy (1993) has outlined a theory of conversational contamination which outlines the large number of misconceptions that may be present when analysing written or tape recorded material. He makes the valuable point that law is a culture of the written word and once jurors see a transcript they view it much the same as a written play. It is *assumed* (my emphasis) that what is said by one person will be heard and understood by another, despite the many constraints of social psychological forces (such as the inherent dangers of perceptual bias - already alluded to in Chapter Two). Shuy points out:

"The written version of spoken language, however beautiful and useful it is for many purposes, simply does not reflect all the information conveyed by speech. People in conversations often do not understand the same things even though they hear the same words." (ibid, p8).

Other misconceptions that pervade this field include the belief that people say what they mean and that meaning can be found in and be attributed to individual words.

Attaching meaning to a particular sentence or response presented another difficult methodological issue. The question of interpretation frequently arose. For example, in response to the question,

Officer 'Do you understand?'

A suspect may reply,

Suspect 'Uh-huh' or 'Mmhh'.

Does this mean that he does understand? Or is he just agreeing with the statement? Or is it both? For the purposes of this thesis the most practical method of dealing with this issue was to only code what could be heard i.e., what was actually said. Not what the present author thought was meant by a particular question or response. In this regard 'meaning' was removed from the coding (but not the analysis). According to Kassin and McNall (1991) listeners often process information 'between the lines' and it was this danger of this 'pragmatic implication' that needed to be avoided. The use of non-judgmental response categories, such as 'positive' and 'negative', illustrate this approach. In the example noted above, the response 'Uh-huh' would be coded as a positive response (allowing for the context in which the question appeared).

This dilemma tended to occur in many cases and was not always confined to the use of abbreviated utterances or slang expressions. It might surface as a result of a rather convoluted question. For example,

Officer 'When [he] used to sleep with you, um... after he wet the bed, or he felt lonely in the night like all children do, once he got into bed with you would he fall asleep quickly or... or would he not?'

Suspect 'Yes'. (Coded as a positive response - even though it is not known exactly what he is saying yes to).

In another case the suspect is asked,

Officer 'Do you deny telling her to get the bloody fucking money?'

Suspect 'No' (positive response)

This could be interpreted as an admission that the suspect uttered those words. The officer is not sure and asks,

Officer 'You don't deny it?'

Suspect 'No' (positive response)

This attempt at clarification has not satisfied the officer, who now asks,

Officer 'What do you mean, I did say that?'

Suspect 'Didn't say that.' (negative response - denial)

Officer 'You didn't say that?'

Suspect 'No' (positive response)

Officer 'So you do deny it then?'

In this example (and armed with the knowledge of previous conversation) it would appear that the suspect actually means to deny the allegation from the beginning. Unfortunately his selected response indicates, in the literal interpretation, that he admits using that phrase. Therefore his first response 'No', is coded as positive and it is some time before the officer extracts what the suspect actually 'means'. Given the context of the entire interview (evidence of the suspect's inarticulate expression, inappropriate grammar and slow speech) this sequence also qualifies for the coding 'appears confused'. It will be noted in the example quoted above that the response 'No' does not automatically confer a negative coding, and the same is true for the response 'Yes' which conversely, will not always attract a positive coding. These examples emphasise the fact that the coding process was not a straightforward reduction of lengthy or intricate sentences to a sterile frequency count. Rather, it required

many hours of active and concentrated listening and re-listening to the audio-tapes, to determine what was actually being said.

There is a rather rich paradox surrounding this analysis of police-suspect interviews. The availability of both the audio-tape and the typed transcript may be depicted as one of the manifest strengths of this project, but a closer examination also exposes the inherent limitations. This paradigm has succeeded in encapsulating both the potency and weaknesses involved. A predicament far more eloquently expressed by Alfred (Lord) Tennyson, when he wrote,

"For words, like nature, half reveal
And half conceal, the soul within."

'In Memoriam A. H. H. (1850)'

The absence of a suitable control group represents a further methodological limitation although, in this instance, the original nature of the study actually appears to mitigate against securing a suitable cohort. Unfortunately, the sample from Part Two of this thesis was not comparable; the category of crimes related to less serious matters, the outcome lacked consistency and a wholly different methodology and selection criteria were imposed. Indeed it was this stringent selection criteria that presented the greatest obstacle. The present sample was drawn from archival and research files from two sources and physically compiling a control group proved impracticable. One question addressed was, what would be a suitable group? A number of options were considered. The first entailed 20 similar cases (meeting the established criteria) where the suspects did not make a confession. This would allow an opportunity to examine possible differences between suspects that were able to 'resist' interrogative pressure and those who capitulated. Another possibility would be to locate a sufficient number

of (suitable) suspects who did not retract their confession. This would allow some comment to be made not only on the interview and confession process, but it might also allow a limited examination of the elusive influence of the 'ground truth'.

Ultimately the practicalities of the situation ruled. It proved impossible to assemble even a fragment of a suitable control group as the cases were not available. In many respects we complete the circle, with the discussion returning to the unique nature of this study. It is suggested that as this is the first time that this type of investigation has been undertaken it would be more prudent to await the outcome and findings of this stage of the research before deciding on the need for, and composition of, a suitable control group. It is hoped therefore, that although this study has not enjoyed the benefit of a control group for comparison purposes, the results will go some way to influencing future research design.

Although the sample assembled in Part Two proved inadequate for acceptable comparison purposes, the experience gained in terms of the intricacies of the initial coding process proved invaluable. Issues surrounding the reliability (consistency) and validity (extent to which you are measuring what you purport to be measuring) have already been discussed in Chapter Six and whilst it is not proposed to revisit these issues in such detail, the efforts undertaken to examine the reliability of the present author's coding in Part Three, will be outlined. Two separate methods were employed. The first test entailed a panel agreement session with the author's supervisor, Dr. Gudjonsson, and adopted many of the features outlined by Baldwin (1993). As would be expected, some disagreement was found but this tended to relate to mainly peripheral detail (e.g., extending the scope and definition of

two variables to capture a wider selection) and overall an agreement level of 94% was achieved. The second test examined intra-related reliability (test, re-test). Sixty, five-minute segments were randomly selected after a period of six months had elapsed, and subjected to a further analysis. It was found that many variables (tactics and responses) were not employed, or occurred in only one or two of the relevant cases. In these circumstances, a visual inspection indicated 100 per cent agreement for 10 tactic variables and for 21 response variables. Only one disagreement was found in a further four variables (tactics) and five response variables. There were 25 tactic variables where a 'Kappa' coefficient test (Dunn and Everitt, 1995) was applied. This produced a mean reliability coefficient of .92 (range .75 to 1). For the remaining 7 response variables, a mean reliability coefficient of .91 was achieved (range .78 to 1).

10. 9. STATISTICAL PROCEDURE AND PRESENTATION

Two routes were considered in relation to the most appropriate method of analysing the data. A subjective approach, adopting the typologies outlined above was eventually rejected in favour of a statistical approach utilising factor analysis, a recognised technique often employed as a method of simplifying large and complex sets of data. The subjective approach, whilst informative, lacked objectivity and proved to be less discriminating than the more rigorous statistical method. Factor analysis is widely used in the social sciences and in simple terms it is capable of reducing an extensive correlation matrix into a more manageable number of factors (where a factor is defined as 'a dimension or construct which is a condensed statement of the relationships between a set of variables', Kline, 1994, p5). Norusis-SPSS (1994) uses the example of 'creativity' as a construct, which unlike weight or temperature cannot be measured in a conventional

manner, on a scale or thermometer. The factor 'creativity' is a unifying construct (or label) that characterises the frequency of responses to related groups of variables. The entire process ".. greatly simplifies the description and understanding of complex phenomena like social interaction." (ibid, p47). Indeed, this method can reveal, or provide an indication of, previously unknown constructs.

Factor analysis has been criticised on the grounds that the eventual outcome merely represents an artefact of the selective nature of the data employed (i.e., you only get out what you put in), but proponents contend that this argument is itself based on faulty logic and provided the variables entered are drawn from as wide a spectrum as possible, and are not merely 'paraphrases' of one another, this deficiency will not apply. The reader may recall that in Part Two of this thesis significant differences between stations were detected in relation to the response variables 'Generally compliant' and 'Agrees readily' (see Chapter Six) which were later subsumed under the one heading 'Co-operative'. A further point of interest in relation to these two variables was that they also contributed to the poorest recorded inter-rater reliability score for this set of response variables - a timely reminder of the dangers of paraphrases within a data set. The debate over the subjective versus statistical approach and a further examination of the strengths and weaknesses of factor analysis, will be discussed later in this thesis when it will be possible to compare and contrast the two styles as both will be graphically illustrated in an explanatory introduction to the use of graphs in the Results section.

All the information from the coding frames was transferred to an SPSS data file to allow for a detailed statistical analysis (Norusis-SPSS, 1994). To facilitate this analysis, a separate case number was allocated for

each five minute segment of each tape which provided sufficient cases to enable an analysis to be undertaken. Given the extensive duration of the interviews in the Heron and Miller cases there was sufficient data to analyse the tactics and responses in these two cases separately. The information from the remaining 18 cases was combined and analysed to identify factors representing the type of tactics employed and responses obtained. Six separate factor analyses were undertaken. The combined group, tactics and responses. Heron, tactics and responses, and Miller, tactics and responses.

One issue that arises, is whether combining 18 separate cases can be justified? In the first instance, the unique nature of this investigation dictates that this is very much an exploratory, rather than a confirmatory exercise. This is also a rather unconventional example of the use of factor analysis. Normally, the different observations would correspond to different people, here they relate to time segments and there has to be a sufficient quantity to allow for an effective analysis (a minimum of five times the number of variables submitted). Some of the shorter cases could not meet this requirement. An amalgamation represents a logical option, given that the ultimate aim is to identify what types of tactics cluster together. That the time segments are likely to be correlated does not invalidate the method as a further redeeming feature of factor analysis, is that correctly applied, it yields a set of uncorrelated factors (for a detailed account see Kline, 1994). It is appreciated that it is unwise to infer causality from correlations, regardless of their degree of significance (Howell, 1987).

Not all the variables itemised on the coding frames were included in the analysis. Those variables that were not endorsed or occurred in less than 5 per cent of the cases were eliminated in order to remove

undiscriminating items (Kline, 1994). A principal components factor analysis was employed for both the tactics used and the responses provided. A Scree test was then examined to determine the relevant number of factors and these were subjected to a Varimax rotation (to assist interpretation). Copies of the Scree charts are attached at Appendix Two on pages A2/12 - 17, for information.

What constitutes a salient loading on a factor is to an extent arbitrary, although 0.3 has been suggested as a guideline (Kline, 1994). In this thesis, it is proposed to employ a more conservative approach and use 0.4 to identify relevant factors. Given the original nature of the data under examination and methodology employed, it is thought advisable to adopt this rather more circumspect approach in the first instance. There would appear to be no agreed terminology to describe the degree to which a variable's loading is salient to the overall construct and it is proposed therefore, to standardise the terminology in this thesis and to employ just two categories. As a guide, a loading of 0.7 means that virtually 50 per cent of that variable's variance is explained by the factor. Accordingly, a salient loading will be classified as 'high' if it is 0.70 or above. A 'moderate' loading will relate to a score that falls between 0.40 - 0.69.

Utilising the same statistical software programme it was also possible to present the resultant scores in graphic form. The factors are standardised with a mean of zero and a standard deviation of 1 (i.e., they can be interpreted as Z-scores). This method was selected as it provides a visual appreciation of the dynamics of that particular stage of the police suspect interview and also illustrates exactly what factors are influential leading up to and immediately prior to an admission or confession. An accompanying narrative is also provided with each

graph. In relation to the combined group of 18 cases, 33 tactic variables (from a total of 39) were submitted for factor analysis. The results section will provide details of the variables contributing to the analysis, below is a breakdown of the eliminated variables, in their respective subjective typology.

Eliminated tactic variables (6):	No reply
<u>DELIVERY</u>	Withdraws confession.
Swearing	<u>INFORMATION - KNOWLEDGE</u>
Raised voices.	Early release information
<u>MAXIMISATION</u>	Likely disposal information.
Pantomime	<u>RATIONALISATION</u>
Threats	Minimise the offence
<u>MINIMISATION</u>	Minimise responsibility for it.
Non-verbal behaviour	<u>EMOTIONAL RESPONSE</u>
Flattery.	Feeling tired or low
	Self blame or remorse
Eliminated response variables	Abusive or angry
(17 - out of 33):	Raised voice
<u>POSITIVE RESPONSES</u>	Lack of orientation
Admission for another	Seek assistance
Provides an alibi.	Indication of vulnerability.
<u>NEGATIVE RESPONSES</u>	
Full and partial right of silence	

In relation to the factor analysis of the Heron case there were 30 tactic variables and 11 response variables submitted.

Eliminated tactic variables (9):	<u>MAXIMISATION</u>
<u>DELIVERY</u>	Challenge - accomplices.
Swearing	

Challenge - previous convictions
Challenge - witness information
Threats

MINIMISATION

Interest to confess
Minimise serious nature offence
Non-verbal behaviour
Shame reduction

Eliminated response variables
(22):

POSITIVE RESPONSES

Admission for another
Confession
Free narrative account

NEGATIVE RESPONSES

Partial silence
Full right of silence
Withdraws confession
No reply

INFORMATION - KNOWLEDGE

Disposal information
Early release information
Repeat (asks for)

RATIONALISATION

Minimise offence
Minimise responsibility
Motive

PROJECTION

Blame victim

EMOTIONAL RESPONSE

Abusive
Confused
Lack of orientation
Raised voice
Remorse
Seeks assistance
Feeling tired or low
Indication of vulnerability

Finally, in the Miller case there were 29 tactic and 15 response variables submitted.

Eliminated tactic variables (10).

DELIVERY

Swearing
Use of silence

MAXIMISATION

Challenge - accomplices.

Challenge - previous convictions
Confront with allegation
Threats

MINIMISATION

Interest to confess

Minimise serious nature offence
Non-verbal behaviour
Shame reduction

Eliminated response variables
(18):

POSITIVE RESPONSES

Admission for another
Confession
Free narrative account
Provides an alibi

NEGATIVE RESPONSES

Partial silence
Full right of silence
Withdraws confession

No reply

INFORMATION - KNOWLEDGE

Disposal information
Early release information

RATIONALISATION

Minimise offence
Minimise responsibility

PROJECTION

Blame victim

EMOTIONAL RESPONSE

Lack of orientation
Remorse
Seeks assistance
Feeling tired or low
Indication of vulnerability

CHAPTER ELEVEN

RESULTS

This chapter is divided into three sections. The first will present the results of the six factor analyses undertaken in respect of the tactics employed and responses provided. The middle section contains a comprehensive summary of the relevant case, suspect and outcome details for the 20 cases in this sample, which is also presented in a Table format (see Table 11. 7. below). Tables providing the results of a number of non-parametric tests are included in this section. Finally, a graphic display of a representative sample of the cases (arson, sex and violence), depicting both tactics and responses, is provided in the third section. The opportunity has also been taken at the beginning of this final section to compare the subjective graph format with the factor analytical approach.

11. 1. FACTOR ANALYSIS

Factor analysis of the combined group of 18 cases - tactics

Table 11. 1. (below) provides details of the results of the factor analysis of the tactics employed in the combined group of 18 cases. Six factors were subjected to a Varimax rotation after examination of the Scree chart (see Appendix Two, page A2/12). According to Kline (1994), “.. Cattell's Scree test is just about the best solution to selecting the correct number of factors.” (ibid, p 75). Although this procedure has been criticised for being rather subjective, the present author, his supervisor and other statisticians readily agreed on the final figure. These six factors accounted for 38.2% of the variance.

Factor 1 is best described as an *Intimidation* factor. The highest loading was found to be the tactic where the officers emphasised the serious nature of the offence (.70) and this was accompanied by a moderate loading of the tactic that maximised the suspect's anxiety concerning his current predicament (.61), both classic maximisation tactics. There were a further six tactics which also loaded moderately on this factor, these included; the manipulative use or reference to others (.55), tactics that highlighted the extensive experience of the officers (.48), manipulating self-esteem (.44), manipulating details (.41), multiple assertions (.45) and the use of silences (.41). It is noticeable that this primary factor contains a broad range of tactics drawn from the three subjective typologies, with eight variables it has considerably more than the other individual factors in this group.

The second factor has been labelled *Robust Challenge*. This contained two high loadings in relation to the challenge that the suspect was lying (or that what he was saying was not believable 0.79) and the overarching tactic, continued dispute (.71). A further challenge, one that highlighted inconsistencies (.50) and the use of interruptions (.45), recorded a moderate loading.

Factor 3 has been described as a *Manipulation* factor as it is made up of four moderate loadings in relation to purely manipulative tactics. These were minimising the serious nature of the offence (.68) and the suspect's responsibility for it (.65), the offer of inducements (.63) and suggesting themes or scenarios (.58).

Factor 4 has been described as *Questioning Style*. The use of leading questions loads highly on this factor (.71) followed by moderate loadings for the use of closed questions (.66), echo (.62) and multiple

questions (.48). The use of open questions did not load on any factors in this analysis.

Factor 5 is best described as an *Appeal* factor. The tactic - appeal to the suspect's good character or an appeal to tell the truth - loads moderately (.66) and this is joined by reassurance (.44) and suggestions that it is in the suspect's interest to confess (.41). Some evidence of an overlap is detectable in relation to the use of silences (.43), which also loaded saliently on factor 1. This is the only example of an overlap between the six factors, in an analysis that is otherwise distinguished by the conceptual purity and clarity of the factors.

Finally, factor 6 is best described as a *Soft Challenge*. The moderate loadings on this factor relate to the challenging tactic of introducing the witnesses' version of events (.60) and this is joined by the delivery variable, low tone (.60). Other salient loadings include the introduction of general evidence (.40) and tactics aimed at shame reduction (.43).

There were five additional tactics that did not load on any of the factors and these have been removed from Table 11. 1. These concerned, challenges about previous convictions or information from accomplices, confronting the suspect with the allegation, implying the existence of evidence, and both officers speaking one after the other.

Table 11.1.1. A factor analysis of the tactics used in the combined group of 18 cases

Factors Variables	Intimidation	Robust Challenge	Manipulation	Question Style	Appeal	Soft Challenge
Maximise seriousness	.70	-.11	-.08	-.04	-.17	-.06
Maximise anxiety	.61	-.16	.17	-.15	-.03	-.06
Use of others	.55	.02	.26	.01	.07	.13
Experienced officers	.48	-.02	.04	-.07	-.33	.08
Multiple assertions	.45	.24	.24	-.03	.16	.01
Manipulate self-esteem	.44	.15	.21	-.14	.01	-.21
Manipulate details	.41	.17	-.09	.11	.12	-.07
Use of silences	.41	.01	-.10	-.01	.43	.23
Challenge:- Lies	.02	.79	.07	.03	.05	-.03
Continued dispute	.20	.71	.22	.28	-.10	.25
Challenge:- Inconsistencies	-.04	.50	.02	-.03	-.11	.02
Interruptions	-.04	.45	-.15	-.07	-.01	-.03
Minimise seriousness	-.07	-.09	.68	.11	-.01	.22
Minimise responsibility	.13	-.12	.65	-.05	-.18	.06
Inducements	.15	.06	.63	-.14	.24	-.15
Suggest scenario(s)	.05	.29	.58	.07	.01	-.15
Leading questions	-.08	.10	.05	.71	-.07	.10
Closed questions	-.31	-.21	-.13	.66	-.04	-.15
Echo	-.10	-.27	-.11	.62	.08	-.19
Multiple questions	.23	.23	-.15	.48	.26	-.01
Appeal	.07	.12	.02	-.17	.66	.17
Reassure	-.04	-.22	.05	-.02	.44	-.11
Interest to confess	.09	-.06	.38	-.11	.41	-.03
Challenge:- Witness evidence	.10	.20	.17	.29	-.07	.60
Low tone	-.10	-.08	-.01	-.18	.12	.60
Shame reduction	-.08	.02	-.06	-.18	.03	.43
Introduce evidence	.26	-.03	.02	.10	-.38	.40
% variance accounted for	10.5	7.0	5.8	5.3	5.0	4.7

Factor analysis of the combined group of 18 cases - responses

Table 11. 2. (below) provides the results of the factor analysis of the responses from the combined group of 18 cases. These four factors were selected after an examination of the relevant Scree test (see Appendix Two, page A2/13) which accounted for 40.7% of the variance.

Factor 1 is best described as a *Justification* factor. Three of the five relevant variables load highly on this factor. They are; providing a motive (.72), blaming the victim or some other party (.70) and introducing a qualification (.70). The two other salient variables which achieve a moderate score are where the suspect indicates he cannot remember (.52), or when he accepts a theme or suggestion initially put forward by the officers (.49).

Factor 2 is best described as an *Account* factor. Two of the three variables that load saliently on this factor have a high classification. They relate to agreeing or accepting what is being said by the interviewing officers (.77) and providing an account (.73). The third salient loading relates to asking for the question to be repeated (.45).

Factor 3 is a *Challenge* factor. The highest and most salient loading relates to challenging a question or account (.78), a response that included challenging any inference that the suspect might have felt was inherent in the question. The two moderate loadings on this factor related to denial (.60) and answers that suggested the suspect was, or appeared, confused (.51).

Finally, factor 4 represents an *Admission* factor. Making an admission loaded highly (.74) and at the lower end of the moderate scale were the responses, a free narrative account (.47) and confession (.44).

There was no evidence of any overlap between the factors in this analysis although there were two variables (where the suspect seeks information or appears distressed) from the rotated factor matrix which did not contribute and were removed from the table.

Table 11.2. A factor analysis of the responses provided in the combined group of 18 cases

Factors Variables	Justification	Account	Challenge	Admission
Motive	.72	.02	.01	.03
Blame victim/other	.70	-.10	-.07	.06
Introduce qualification	.70	.24	.06	-.02
Not remember	.52	.19	.01	-.11
Accept theme	.49	-.11	.01	.01
Agree point	-.01	.77	.02	.12
Provide account	.11	.73	-.09	.01
Question to be repeated	-.01	.45	.02	-.03
Challenge account	.05	-.06	.78	-.25
Deny	.07	.29	.60	-.27
Confused	-.15	-.01	.51	.15
Admission	-.05	-.06	.23	.74
Free narrative account	-.07	-.25	-.13	.47
Confession	.01	.13	-.08	.44
% variance accounted for	13.9	10.0	9.2	7.7

Factor analysis of the Heron Murder Case - tactics

Table 11. 3. (below) provides details of the salient loadings in relation to the factor analysis of the tactics employed in the Heron murder investigation. These five factors were selected after an examination of the Scree test (Appendix Two, page A2/14) and accounted for 39.1% of the variance.

Factor 1 is best described as a *Browbeating* factor. Of the seven variables that load saliently on this factor, three attract a high classification. These relate to tactics that challenge the suspect that he is lying (or that what he is saying is not believable, 0.78), the use of raised voices (.76) and multiple assertions put forward by the officers (.70). The remaining four variables that are included in this factor relate to a pantomime style approach to questioning (.63), implying that evidence exists (.55) and making an appeal to the suspect to tell the truth (.54). A negative correlation was present in relation to the use of closed questions (-.60), which suggests that they tended not to be used in conjunction with these other variables.

Factor 2 is best described as a *Manipulation* factor. Two of the five variables in this factor have attracted a high rating and four of them are outright psychologically manipulative tactics. The highest loadings have been awarded to the use or exploitation of others (.78) and minimising the suspect's responsibility for the offence (.72). The remaining three items are manipulating self-esteem (.66), offering reassurance (.65), and maximising the suspect's anxiety (.63).

Factor 3 has been described as a *Persistent Pressure* factor. There are five variables loading on this factor and three have attracted high scores. The highest relates to multiple officers (.79), followed closely by

multiple questions (.78) and the use of silences (.75). Echo, represents the fourth delivery variable present (.50), with the manipulative tactic, suggesting scenario or theme (.56), as the fifth variable.

Factor 4 is best described as *Exaggerating the Evidence*. There are only three variables loading saliently on this factor. The highest loading relates to the tactic introducing evidence (.76), followed by manipulating detail (.63) and, finally the tactic, pantomime (.44, which also loaded on Factor 1).

Eleven of the rotated variables (which failed to contribute to the factor scores) were removed from Table 11. 3. These were: challenging inconsistencies, confronting with the allegation, emphasising the experience of the officers, use of flattery, inducements, low tone, maximising the serious nature of the offence, not employing leading or open questions, interruptions and continual disputes.

Table 11.3. A factor analysis of the tactics used in the Heron murder case

Factors Variables	Browbeat	Manipulation	Persistent Pressure	Exaggerate Evidence
Challenge:- Lies	.78	.12	-.10	.18
Raised voices	.76	-.12	.05	-.16
Multiple assertions	.70	.08	-.01	-.35
Pantomime	.63	-.03	-.04	.44
Closed questions	-.60	-.30	-.03	-.16
Imply evidence	.55	-.26	-.26	.09
Appeal	.54	.18	.13	-.06
Use of others	.18	.78	-.08	-.01
Minimise responsibility	-.01	.72	-.10	-.03
Manipulate self-esteem	.28	.66	-.15	-.14
Reassure	-.02	.65	.17	.13
Maximise anxiety	.28	.63	.03	.34
Multiple officers	.14	-.10	.79	.02
Multiple questions	-.08	-.10	.78	.01
Use of silences	-.13	-.06	.75	.12
Suggest scenario(s)	-.03	.23	.56	-.15
Echo	-.16	-.16	.50	-.18
Introduce evidence	.06	-.12	.02	.76
Manipulate details	.22	-.13	-.05	.63
% variance accounted for	14.3	10.3	8.7	5.8

Factor analysis of the Heron Murder Case - responses

Table 11. 4. (below) provides details of the factor analysis of the responses provided in the Heron murder case. These factors accounted for an impressive 70.3% of the variance. For a copy of the Scree test see Appendix Two, page A2/15.

Factor 1 is best described as a *Resistance* factor. There were four variables that loaded saliently on this factor and three of them achieved a high classification. These were the use of denials (.78), challenges to the officers' account (.77) and providing an account (-.77). The final item related to agreeing or accepting what the officer was saying (-.65). Negative codings suggest that these responses tended not to be present. As they are grouped with denials and challenges, it makes sense to suggest that the suspect did not indulge in agreeing with the officers or providing an account.

Factor 2 is an *Admission* factor and has two highly salient loadings, admission (.81) and accepting a theme or scenario (.79).

Factor 3 has been described as a *Poor Memory* factor. There are two highly salient loadings in relation to the variables cannot or unable to remember (.84) and providing an alibi (.81).

Factor 4 represents a *Seeks Information* factor. Again there are two variables with rather high classifications concerning the responses, seeking information (.80) and introducing a qualification (.78).

Factor 5, which contains only one salient variable, has been labelled as a *Distress* factor. This factor contains a very high loading score for the response variable, distress (.88).

The results in this table have a very high level of conceptual clarity, discriminative power and consistently high loadings. There were no variables submitted for rotation that did not contribute saliently to the factors.

Table 11.4. A factor analysis of the responses provided in the Heron murder case

Factors Variables	Resistance	Admission	Poor Memory	Seeks Information	Distress
Deny	.78	-.07	-.13	-.15	.02
Challenge account	.77	-.06	.12	-.16	.28
Provide account	-.77	-.01	.08	-.19	-.11
Agree point	-.65	-.33	-.20	.01	.23
Admission	.08	.81	.16	-.06	.28
Accept theme	-.05	.79	-.13	.13	-.06
Not remember	-.06	.21	.84	.01	.01
Provide alibi	.05	-.20	.81	-.05	-.05
Seeks information	.09	.04	-.06	.80	-.25
Introduce qualification	-.17	.05	.02	.78	.23
Distress	.16	.14	-.06	-.01	.88
% variance accounted for	21.9	14.8	14.0	11.2	8.4

Factor analysis of the Miller Murder Case - tactics

Table 11. 5. (below) provides details of the factor analysis of the tactics employed in the Miller murder case. These five factors were extracted after an examination of the Scree test (Appendix Two, page A2/16) and accounted for 46.4% of the variance.

Factor 1 is best described as a *Mr. Nasty* factor. Altogether, seven variables loaded on this factor and four of these attracted high loading scores. These related to the tactics; challenging the suspect's version of events as a lie or not believable (.83), appealing to him to tell the truth (.82), raised voices (.80) and the overarching tactic, continual dispute (.76). The remaining three tactics were the use of threats (.68), the manipulative use of significant others (.61) and maximising the suspect's anxiety (.58).

Factor 2 has been described as a *Mr. Nice* factor. In this factor the tactics used include low tone (.67), reassurance (.59), multiple assertions (.59) and implying evidence (.54). All three question styles also appear in this factor although two are negative correlations. Thus, both open (-.48) and closed questions (-.61) tended not to be employed, whilst leading questions attracted a positive loading (.49).

Factor 3 is best described as a *Manipulation* factor. The highest loading in this instance relates to the use of the tactic, experienced officers (.79). Three moderate loadings are also present in relation to manipulating detail (.64), minimising responsibility for the offence (.57) and challenging the suspect with witness information (.64).

Factor 4 has been labelled as a *Poor Delivery* factor. There were only moderate loadings present in this factor in relation to the use of

multiple questions (.40), multiple assertions (.40) and echoing (.50). Negative loadings were present in relation to interruptions (-.41) and introducing evidence (-.53).

Factor 5 has been described as a *Persistent Pressure* factor. The component parts of this factor were multiple officers (.69), maximisation of the serious nature of the offence (.59), use of inducements (.53) and not employing leading questions (-.43).

There were four tactics submitted for rotation which did not make a contribution to the eventual factors. These relate to challenging inconsistencies, flattery, manipulating self-esteem, and suggesting a theme or scenario.

Table 11.5. A factor analysis of the tactics employed in the Miller murder case

Factors Variables	Mr. Nasty	Mr. Nice	Manipulation	Poor Delivery	Persistent Pressure
Challenge:- Lies	.83	-.11	.14	-.23	-.03
Appeal	.82	.10	-.04	.05	-.14
Raised voices	.80	-.09	.10	-.21	-.02
Continued dispute	.76	-.15	.38	-.34	.10
Threats	.68	-.15	.38	-.34	.10
Use of others	.61	.23	.18	-.07	.17
Maximise anxiety	.58	.38	-.19	.03	-.01
Low tone	-.06	.67	-.22	-.07	-.09
Closed questions	-.06	-.61	-.20	.22	-.34
Multiple assertions	.03	.59	.10	.40	-.07
Reassurance	.16	.59	.13	.21	.04
Imply evidence	-.02	.54	.30	-.21	.09
Leading questions	-.11	.49	-.03	.30	-.43
Open questions	-.02	-.48	-.15	.32	-.06
Experienced officer(s)	.10	.11	.79	-.06	-.02
Challenge:- Witness evidence	.33	-.05	.64	-.36	.20
Manipulate detail	.03	.06	.64	-.07	.12
Minimise responsibility	-.07	.20	.57	.14	.18
Introduce evidence	.09	.01	.01	-.53	-.16
Echo	.12	-.34	-.01	.50	-.38
Interruptions	.15	-.04	.24	-.41	-.04
Multiple questions	-.02	-.09	-.05	.40	.14
Multiple officers	.08	.01	.14	.13	.69
Maximise seriousness	.25	.10	.16	.21	.59
Inducements	-.08	.21	.06	.09	.53
% variance accounted for	18.0	10.9	6.8	5.9	4.8

Factor analysis of the Miller Murder Case - responses

Table 11. 6. (below) provides details of the factor analysis of the responses provided in the Miller murder case. These four factors were identified from the Scree test (Appendix Two, page A2/17) and accounted for 53.6% of the variance.

Factor 1 is best described as an *Angry Denial* factor. It is composed of four very high loadings, including the highest in the entire sample, the use of a raised voice (.92). This variable is joined by angry and/or suspicious (.85), challenging accounts or events (.84) and denial (.80).

Factor 2 has been described as a *Seeks Information* factor. Of the three variables present in this grouping, two have high loading scores. They are where the suspect asks for the question to be repeated (.79) and where he seeks information (.75). The final response in this factor is an admission (.47).

Factor 3 has been described as a *Provide Account* factor. The response providing an account loads very highly in this instance (.81) and it is accompanied by the response, agrees with or accepts what the officer is asking (.66). The only other response variable present was a negative correlation for distress (-.43) which suggests an absence of this variable.

Factor 4 has been described as an *Accept Scenario* factor. Four variables load moderately on this construct and these include, accepting a theme (.44), not remembering (.60), introducing a qualification (.57) and signs of distress (.44).

Two responses have been removed; providing a motive and appearing confused.

Table 11. 6. A factor analysis of the responses provided in the Miller murder case

Factors Variables	Angry Denial	Seeks Information	Provide Account	Accept Scenario
Raised voice	.92	.12	-.08	.08
Angry/suspicious	.85	-.10	-.03	.17
Challenge account	.84	.03	-.06	-.07
Deny	.80	.15	-.01	-.01
Question to be repeated	-.01	.79	.10	-.09
Seeks information	.20	.75	.17	.05
Admission	-.09	.47	-.22	.13
Provide account	-.25	-.02	.81	.11
Agree point	-.25	-.24	.66	.37
Distress	-.17	-.02	-.43	.44
Accept theme	-.10	-.13	-.02	.62
Not remember	.38	.08	.15	.60
Introduce qualification	.05	.25	.13	.57
% variance accounted for	23.0	11.9	10.8	8.0

11. 2. A SUMMARY OF CASE, SUSPECT AND OUTCOME DETAILS

There are a number of advantages attached to presenting complex sets of data in graph form. The first is obviously the immediate visual image and accompanying message that is portrayed. This is particularly appropriate as this research is concerned with identifying what it is that is said or done leading up to and immediately before an admission or a confession is made. Secondly, this approach allows for a large volume of information to be condensed and presented in a compact and user-friendly manner. Unfortunately, there is such a great deal of information within this thesis (even when reduced to a graphic format) that it is thought prudent not to attempt to present each and every tape of interview in this Results Section. To do so would serve only to deluge the reader. What is proposed therefore, is to introduce a representative selection drawn from the three main offence categories. A sex related offence (Case No. 6) will be utilised to illustrate the strengths and weaknesses of the subjective versus the statistical approach of analysing the data. An arson case (Case No. 8) will be outlined and one violent offence, the Heron Murder Case (Case No. 19) will also be included. The remaining cases are outlined fully in Appendix Three, pages A3/1 -94.

Prior to examining each graph, it is necessary to explain their composition and detail. The horizontal axis (X-axis) represents the time segments in each case and is presented in either 5 or 10 minute sequences. The vertical axis (Y-axis) represents the individual factor score and is calibrated by the number of standard deviation (SD) points from the mean. Taken across the entire period of interview, the mean for each factor score is zero. In respect of the subjective graph for Case 10, the factor scores on the Y-axis represent a frequency count.

To assist interpretation and remain consistent, the present author has also standardised the labels or terminology to be applied to the factor levels (or zones) on the Y-axis. Factor scores that do not extend beyond plus or minus one SD, for example, are referred to as *Average* scores.

Factors that extend up to three SD points are referred to as *Moderate* scores, those extending up to five SD scores have been labelled *Marked*, and finally those that extend beyond five SD points are identified as *Extreme* scores. It should be noted that these descriptive terms were arbitrarily applied by the present author prior to an examination of any of the cases in this sample.

For the majority of the main group of 18 cases it was possible to present the entire case on one graph. The graph itself was divided into sections corresponding to the tapes used (this demarcation is emphasised by the use of an unbroken thick black vertical line) and each tape period was marked by a small annotation, e.g., Tape 1, Tape 2 (T1, T2). On the actual graphs such references were boxed (please see pages 226/227 below). Confessions, admissions or periods of multiple admissions were also identified in this fashion, although an intermittent vertical black line was employed to differentiate these occurrences. A colour coded legend was provided to identify each factor. The colour scheme remained faithful to the factor number and details of the specific label attached to each factor was provided within the legend box. Therefore:

- Factor 1 (whether a response or a tactic) was always black.
- Factor 2 was always dark blue.
- Factor 3 pink.
- Factor 4 red.
- Factor 5 green, and finally
- Factor 6 yellow.

This colour scheme proved particularly useful when attempting to cater for those cases with more than four factors displayed.

Often it was not possible to retain six factors on the one graph as the image proved too congested and difficult to interpret. In these circumstances at least two factors were removed, which tended to be those that did not deviate from the mean or extend beyond plus or minus one SD. In other words, those factors that made no more than an *Average* contribution to the process were removed. This elimination process can be justified on the grounds that it would be difficult to argue that such a minimal use of a tactic (across an entire interview) would be responsible for exerting the necessary pressure required to make the suspect confess to the allegation when considered alongside other factors that were operating beyond the *Average* level, e.g., at an *Extreme* level. In each case where a factor was removed, a reference to this effect was included in the narrative box that accompanies each graph. The tactic and response graphs are presented (in landscape format) on consecutive pages to maximise understanding of the dynamics of a particular interaction.

Each graph has been prefaced with a deliberately brief introduction sheet, which contains the following data:

1. Suspect details and general tape information.
2. Details of other parties present and an evaluation of their performance.
3. An insight into the psychological characteristics of the suspect and the outcome of the case.
4. A summary and evaluation of the manner and interviewing style adopted by the police officers.

To place all this information in context, a summary of the 20 cases is provided in the first instance, together with the salient details and outcome of the cases in tabular form (see Table 11. 7. below). Each individual case in the table is identified with a unique number (in bold type) which also relates to the corresponding graph(s). This will enable the reader to cross reference all sources of information.

Duration of interviews

The mean interviewing time for all 20 cases was 2 hours 16 minutes, with a range of 24 minutes to 12 hours 42 minutes and a standard deviation of 2 hours 58 minutes. However, when the two particularly lengthy cases (Heron and Miller) are removed from the sample, the mean interviewing time for the remaining 18 cases falls to 1 hour 23 minutes, with a range of 24 minutes to 4 hours 15 minutes, and a standard deviation of 55 minutes. The Heron case involved interviews lasting 7 hours 48 minutes and the Miller case was by far the longest in the sample at 12 hours 42 minutes. In 16 of the cases, the interviews were undertaken on the same day. In the remaining four cases, two took place over two days, one lasted three days and the other case extended to five days. The Miller case was also the oldest case in the sample, taking place in December, 1988. All the other cases took place between April 1991 and July 1996.

Interviewing officers

In the 20 cases featured in Table 11.7. (below), there were a total of 46 officers present in an interviewing capacity. 43 were male (93%) and 3 were female (7%). Of this number, there were 40 detectives (87%) and 6 (13%) uniformed officers. Constables made up 33 (72%) of the total, with 9 (20%) detective sergeants, 2 (4%) detective chief inspectors and 2 (4%) detective inspectors. The proportion of detectives and inclusion of a number of middle ranking officers is thought to reflect the serious nature

of the crimes under investigation. The use of pairs of officers (or teams) was evident in the extended cases. In one of the 2-day cases a 'senior' team (DCI and DI) was replaced after one interview by a mixed 'junior' team (DC and PC) who undertook a further six interviews. In the 3-day case, this procedure was reversed. A 'junior' team (DS and DC) were replaced by a 'senior' pair (DCI and DI). Finally, in the 5-day case two 'junior' teams (2 DC's) were employed. All three were murder cases.

Legal adviser and Appropriate Adult

A legal adviser was present in 12 (60%) of the cases, but it was not possible to determine the actual status of each individual. According to the positive-negative categorisation employed in this study, two thirds of the cases (8) received a negative coding. In the majority of the cases this was because they remained silent when there appeared good reason for them to interject.

An AA was present in 6 (30%) of the 20 cases. This number was composed of three AAs from the local social services, one relative, a voluntary worker and a residential home manager. Five out of the six AAs (83%) received a negative coding. Two of these were awarded because of the passive nature of the individual (i.e., they remained silent when the situation demanded otherwise) but more worryingly, in the three remaining cases (50%) it was actually an intervention, or prompt, from the AA that preceded a confession being made. There was only one case where an appropriate intervention was made.

Psychological vulnerabilities of the suspect

It was not possible to accumulate a standard psychological profile for each suspect in this sample as often the referral source (defence solicitors, CPS) would have identified a specific problem for the clinician

to report on. It was possible, however, to obtain information in relation to the FSIQ score of each suspect. The mean I. Q. score for this sample was 79 (SD of 9.4) and the range was from 63 (1 case) to 101 (1 case). There were eight cases with a FSIQ score of 75 or less, which would be likely to bring them under the scope of s77 of PACE (and require an AA): of this group, four had an score of 69 or less.

Broad categories of tactic factors

An examination of the tactics outlined in Column 3 (Table 11. 7.) provides an opportunity to reduce the tactic factors from all three analyses into three broad categories. The sample can be broken down into 12 cases where essentially 'overbearing' tactics predominate (cases 1-3, 5-7, 12-14 and 18-20); five cases where manifestly more 'sensitive' tactics are employed (cases 4, 8-11); and, finally, three neutral cases which are not dominated by either of the two previous groups of tactics (cases 15-17). This categorisation has been noted in Column 2.

Nature of offence and outcome

The types of offences in this study have been presented under three general headings: arson, sex related crimes and violent offences. There were four arson cases and seven cases involving sex related allegations such as rape, incest, buggery. There were eight cases involving physical violence (or the threat of such violence) and this included four murder cases. Finally, there was one case of attempting to pervert the course of justice (false allegation of rape).

A conviction was recorded in 10 of the 20 cases (50%). Dealing with the seven sex cases: four pleaded guilty (three to lesser offences), one was not proceeded with and was left on the court files, and not guilty pleas were entered in the other two cases. A guilty verdict was returned in

one of these two cases, and the interview evidence was ruled oppressive and inadmissible in the second case, where the jury returned a not guilty verdict.

There were no convictions recorded in the four arson cases. The reliability of the interview evidence in three of these cases was in doubt and no evidence was offered (2 cases) or the case was dismissed (1 case). In the fourth case the jury returned a not guilty verdict having heard all the evidence. A guilty plea was entered in Case 12, in relation to attempting to pervert the course of justice.

In the violence category, four convictions are recorded out of the eight cases. Two of the four murder cases were reduced to manslaughter charges and pleas of guilty entered. In Heron, the judge dismissed the case at the Crown Court (interviews ruled to be oppressive), and in the Miller Case, the original conviction (and life sentence) was overturned on Appeal, again because of the oppressive nature of the interviewing tactics. A guilty plea was entered for one of the robbery cases (Case 15) and the Blackmail charge was left on the court files. In Case 13, a not guilty verdict was entered on the direction of the judge after expert psychological evidence raised doubts over the integrity of the interview evidence and in Case 14, the interviews were ruled inadmissible after the Judge accepted that the officers had breached the PACE Codes by failing to have an AA present.

Regrettably, there is a dearth of detailed information concerning the issues raised in each trial and the exact reasons leading to the eventual outcome of each case. Without a full appreciation of this development (from a defence and prosecution perspective) it is not always possible to comment on the impact of the interviewing tactics on the course of the

subsequent trial. In those cases where the psychological evidence was admitted and proved influential, this has been noted. For example, psychological evidence was given at the trial or the report impacted on the outcome of the case in 13 of the 20 cases (65%)

Subjective evaluation of interview tactics

The interview tactics in each case were rated by the present author under four headings: Open, Skilful, Manipulative and Forceful. A 'Likert' scale was used to measure the frequency/intensity of each category, ranging from 1 (not at all) to 4 (very much, very often: see Table 11. 10. below). In the 'Open' category, 11 cases were awarded the minimum score and only two cases reached a score of three. The overall mean for this Open category was 1.6. In the second category, 'Skilful', 9 cases were awarded the minimum mark and only three reached a score of three. The mean score of this group was slightly higher at 1.8. There were no cases in the first two categories that achieved the maximum score.

The reverse was found in the next two categories. There were 9 cases awarded a maximum score of four for the 'Manipulation' category, with five achieving a score of two and no cases with a minimum score. This produced an overall mean score of 3.4. In the 'Forceful' category, one case was awarded the minimum score but 12 achieved the maximum score of four. This produced a mean of 3.2.

Table 11.7. provides details and the outcome of the 20 cases in this study. It includes a brief outline of the major tactics employed during each case (including a summary of the factor category) and an evaluation of the type of tactics employed.

Table 11.7. Summary of cases

Case Circumstances	Offence, Factor Category	Tactics: Intim = Intimidation; Rob Ch = Robust Challenge; Manip = Manipulation; QS = Questioning Style; Soft Ch = Soft Challenge; Ex Ev = Exaggerate Evidence; PP = Persistent Pressure	Outcome: RI = Report Influential. PE=Evidence given.	Evaluation: 1 = Not at all. 4 = Very much/often.
1. 18 yr old suspect. I.Q. score 82. Legal adviser (-'ve), no AA. Male and female DCs. 1hr 6 min interview. Same day. 1994.	Burglary (with intent to rape) Overbearing	Moderate use of QS and marked use of Intim to admission. Moderate Appeal, Manip & QS prior to confession.	Guilty to burglary - only. Hospital Order imposed. (RI)	Open - 2 Skilful - 3 Manip'ive - 4 Forceful - 3
2. 19 yr old suspect. I.Q. score 73. No AA. Duty Solicitor present (+'ve). 2 male DSs. 1hr 12 min interview. Same day. 1994.	Attempted rape indecent assault on niece Overbearing	Characterised by low key start and marked use of Manip prompting multiple admissions. Confession follows increase in QS.	Found not guilty.	Open - 2 Skilful - 1 Manip'ive - 3 Forceful - 2
3. 15 year old suspect. I.Q. score 73. AA (-'ve) legal adviser (-'ve). 2 male detectives (DS & DC). Very short 24 min interview. 1992.	Rape Overbearing	Admission made at outset, consent at issue. Moderate use of QS, Extreme Intim & moderate Appeal prior to admission & confession.	Interview ruled oppressive & inadmissible. (PE). Not guilty.	Open - 1 Skilful - 2 Manip'ive - 3 Forceful - 3
4. 54 yr old suspect. I.Q. score 80. No AA. Solicitor present (+'ve). 2 male constables (PC/DC). 62 min interview, same day. 1992.	Buggery (victim known to offender) Sensitive	Low key start with moderate use of Soft Ch and Intim after 30 mins. Marked use of Appeal leads to admissions and confession.	Guilty, 10 years impt (varied on appeal to 8 years).	Open - 3 Skilful - 3 Manip'ive - 3 Forceful - 1
5. 18 yr old suspect. IQ. score 85. No legal adviser or AA. 2 male officers (DS, DC). 2 hr 29 min interview, on same day. 1991.	Rape and ind assaults (young relative & family friends) Sensitive	Moderate use of QS and Manip, marked use of Soft Ch in T1. Marked use of Manip and moderate Intim, Soft Ch, Rob Ch, & QS in T2 to admission. Moderate Intim and QS to admissions in Ts 3 & 4, & Soft Ch and Appeal to confession.	Rape left on file, guilty to ind assaults - 3 yrs Young Offenders Institute.	Open - 2 Skilful - 2 Manip'ive - 4 Forceful - 3

6. 32 yr old suspect. I.Q. score 73. No AA, legal adviser present (-'ve). 2 male constables. 74 min interview on same day. 1992.	Buggery (on young relative) Sensitive	Moderate use of QS and Appeal in T1. Marked Rob Ch and Soft Ch, T2. Marked use of Soft Ch and Appeal to confession T4, with moderate QS & Intim.	Buggery left on file. Guilty to indecent assault (x 2). 2 years impt.	Open - 1 Skilful - 2 Manip'ive - 2 Forceful - 4
7. 55 yr old suspect. I.Q. score 82. No AA, legal adviser (+'ve). Male and female DC's, 1 hr 26 min interview, same day. 1994.	Incest (x2) and indecent assault (x5) Sensitive	Striking example of shame reduction tactics. Low key T1, but Extreme use of Soft Ch in T2, with moderate Appeal, to admissions & confession.	Pleaded not guilty. Found guilty, 6.5 years impt.	Open - 2 Skilful - 2 Manip'ive - 2 Forceful - 2
8. 22 yr old suspect. I.Q. score 69. No legal adviser. AA present (-'ve). 2 male officers (DS, DC). 2hr 18 min. Interview on same day. 1992.	Arson (dwelling-unoccupied) Overbearing	Marked Intim and Manip to admission. Extreme use of Manip (highest in sample) to multiple admissions. Moderate Appeal, Soft Ch & marked Intim to confession.	Reliability of interview in doubt - no evidence offered. (RI)	Open - 1 Skilful - 1 Manip'ive - 4 Forceful - 4
9. 18 yr old suspect. I.Q. score 82. No AA or legal adviser. One male DC. Short 30 min interview. 1991.	Arson to church and house (unoccupied) Overbearing	Escalating use of Rob Ch from outset reaching Extreme level. Marked use of Intim, moderate Appeal & QS to admission & confession.	Interview ruled oppressive. Case dismissed. (RI)	Open - 1 Skilful - 2 Manip'ive - 4 Forceful - 4
10. 18 yr old suspect. IQ score 67. Legal adviser present (-'ve), no AA. 2 male detectives (DS, DC). 47 min interview. 1993.	Arson (2 counts) and burglary Overbearing	Early admission to burglary, low key start, moderate use of QS. Extreme Manip and moderate use of Appeal and Intim to confession.	Reliability of interview in doubt - no evidence offered. (RI)	Open - 1 Skilful - 2 Manip'ive - 4 Forceful - 3
11. 24 yr old suspect. I.Q. score 69. No legal adviser. AA present (-'ve). 2 male DCs. 1 hr 34 min interview, on same day. 1995.	Arson to out building and burglary Sensitive	Subdued T1, moderate use of Rob Ch. T2, Extreme use of Appeal leading to admissions and confession.	Verdict of not guilty returned by jury. (PE)	Open - 2 Skilful - 2 Manip'ive - 3 Forceful - 4
12. 26 yr old female suspect. I.Q. score 87. AA (-'ve) No legal adviser, 2 male detectives (DS, DC). 1 hr 49 min interview. 1992.	Attempt pervert course of justice, false rape claim Overbearing	4 Tapes. T1, very low key. T2, moderate QS but marked Intim. Moderate use of QS & Intim in T's 3 & 4, leading to confession.	Pleaded guilty. 2 year Probation Order.	Open - 1 Skilful - 1 Manip'ive - 4 Forceful - 4
13. 23 yr old suspect. I.Q. score 101. Legal adviser (-'ve), no AA. 2 male DCs. 86 min interview, same day. 1992.	Armed robbery aggravated burglary Overbearing	Quiet T1. Moderate use of Manip and marked use of Intim in T2, leading to confession.	Interview ruled inadmissible. Not guilty, directions of the judge. (RI)	Open - 1 Skilful - 1 Manip'ive - 4 Forceful - 4

14. 38 yr old suspect. I.Q. score 81. No AA or legal adviser. 2 male officers (DS, DC). 66 min interview over 2 days. 1992.	Armed robbery, aggravated burglary Overbearing	Very unusual, responses reached Extreme proportions & exceed tactics. T1 & T2. Very quiet T3, moderate use of QS, Rob & Soft Ch to admission & confession.	Breach of PACE - No AA. Interview ruled inadmissible (RI).	Open - 1 Skilful - 1 Manip'ive - 3 Forceful - 2
15. 18 yr old suspect. I.Q. score 81. No AA or legal adviser. 2 male DC's, 35 min interview on same day. 1996.	Robbery Neutral	Short interview, average use of Intim and Soft Ch, Manip increases to moderate scale to admission. QS and Appeal to confession.	Pleaded guilty. 3 years Young Offenders Institute.	Open - 1 Skilful - 1 Manip'ive - 3 Forceful - 4
16. 24 yr old suspect. I.Q. score 63. No AA or legal adviser present. 2 male constables (1DC). 43 min interview. 1995.	Blackmail (left on file at Crown Court) Neutral	Admissions from outset and moderate use of all tactics bar Intim. Resurgence of QS to confession.	Bound over to keep the peace, sum £150. (RI).	Open - 1 Skilful - 1 Manip'ive - 3 Forceful - 4
17. 18 yr old female. I.Q. score 78. AA (+ve) legal adviser (+ve) 1st interview (21min, DCI, DI). Then Male (DC) female (PC), 3hrs 54 min, interviews over 2 days. 1993.	Murder of her new born child Neutral	Gentle T1. Moderate Appeal & QS in T2. Subdued T3. Moderate Rob Ch & Appeal in T4 & T5. Moderate use of Rob Ch through T6 and average in T7 to confession.	Manslaughter, 3 years probation. (RI).	Open - 2 Skilful - 1 Manip'ive - 3 Forceful - 3
18. 20 yr old suspect. I.Q. score 80. AA (-ve) legal adviser (-ve). 2 male constables (PC/DC). 61 min interview on same day. 1995.	Murder and assaults with a knife Overbearing	Each officer monopolises a separate tape. T1, opens with moderate use of QS, closes with Intim. Tape 2 marked level of Intim to admission & confession.	Manslaughter. Life Imp. Varied to Hospital Order. (RI).	Open - 3 Skilful - 3 Manip'ive - 3 Forceful - 3
19. 23 yr old suspect. I.Q. score 92. No AA, legal adviser (-ve). 4 male CID (DC, DS, DI, DCI), 7 hrs 48 min over 3 days. 1992.	Heron Murder Case Overbearing	Very subdued first 3 tapes. In T4 marked Ex Ev & moderate Browbeat. Both tactics climb in T5 to Extreme Ex Ev and marked Browbeat. Consistent marked use of Manip in T6 and Browbeating at a marked level in T7 to confession.	Interviews ruled oppressive and inadmissible. Not guilty, directions of the judge. (RI)	Open - 1 Skilful - 1 Manip'ive - 4 Forceful - 4
20. 22 yr old suspect. I.Q. score 75. No AA, solicitor present (-ve). 5 DCs, Mr. Nice and Mr. Nasty style. 19 interviews, taking 12 hrs 42 mins, over 5 days. 1988.	Miller Murder Case Overbearing	Moderate and Extreme Manipulation in T1 & T2, then marked PP and Mr. Nice in T4 & T5. Subdued T6 but Extreme Mr. Nasty in T7 leading to crucial admissions in T8.	Appeal Court ruled interviews oppressive. Conviction quashed. (RI)	Open - 2 Skilful - 2 Manip'ive - 4 Forceful - 4

Table 11. 8. provides details of the measurement of the tactics and whether the interview evidence was allowed to be used in court.

Table 11. 8. Level of tactics used and outcome of the case

Tactic level	Tactics up to a <i>Marked</i> level	Tactics at an <i>Extreme</i> level
Allowed in evidence		
Admissible*	10 (50%)	2 (10%)
Not admissible	2 (10%)	6 (30%)

* Sig: χ^2 $p = .0194$ (2 tail, Fisher exact).

According to this finding, use of the *Extreme* levels of tactics were significantly more likely to lead to a court ruling such tactics inadmissible, compared with the use of tactics that failed to extend beyond the *Marked* level.

Table 11. 9. provides details of the association between the type of tactics employed and the nature of the offence under investigation.

Table 11. 9. Tactics employed and offence category

Tactics employed	Sensitive tactics	Overbearing tactics
Offence category		
Sex related cases*	4 (24%)	3 (17%)
Others	1 (6%)	9 (53%)

* Sig: χ^2 $p = .06$ (1 tail, Fisher exact, ns).

According to Table 11. 9 above, 'sensitive' tactics tended to be employed more often in sex related cases, rather than in other categories (violence, arson). This finding just failed to reach a conventional level of significance.

Table 11. 10 examines the subjective evaluation of the police interview and the nature of the tactics employed.

Table 11. 10. Evaluation of officer's performance and nature of tactics

Evaluation Tactics	Open			Skilful			Manipulative			Forceful		
	SD	mean	U	SD	mean	U	SD	mean	U	SD	mean	U
Overbearing	.67	1.4	16	.80	1.6	15	.49	3.7	12	.78	3.3	23
Sensitive	.71	2.0	*	.45	2.2	**	.84	2.8	**	1.3	2.8	ns
Combined	.71	1.6		.75	1.8		.71	3.4		.95	3.2	

* Sig: $p = .05$ (Mann-Whitney, 1 tail).

** Sig: $p < .05$ (Mann-Whitney, 1 tail).

The findings suggest that officers employing the more 'sensitive' type of tactics were significantly more likely to be awarded a higher evaluation for adopting a more 'Open' and 'Skilful' approach than their counterparts who adopted more 'overbearing' tactics ($p = .05$, 1 tail and $p = .04$, 1 tail, respectively). Conversely, those employing 'overbearing' tactics were significantly more likely to be awarded a higher evaluation for 'Manipulative' tactics than officers adopting a 'sensitive' approach ($p = .04$, 1 tail). There were no significant findings in relation to 'Forceful' tactics.

11. 3. GRAPHICAL PRESENTATION OF RESULTS

An introduction sheet for Case 6.

This related to an allegation of buggery against a 32 year old man. The victim in the case was the suspect's 7 year old nephew. There were four relevant tapes of interview which started at 13.50 hours and finished at 15.28 hours. The total interview time was 1 hour and 14 minutes. There were two male interviewing officers, both police constables attached to the local Child Protection Team, who shared the questioning. The year was 1992.

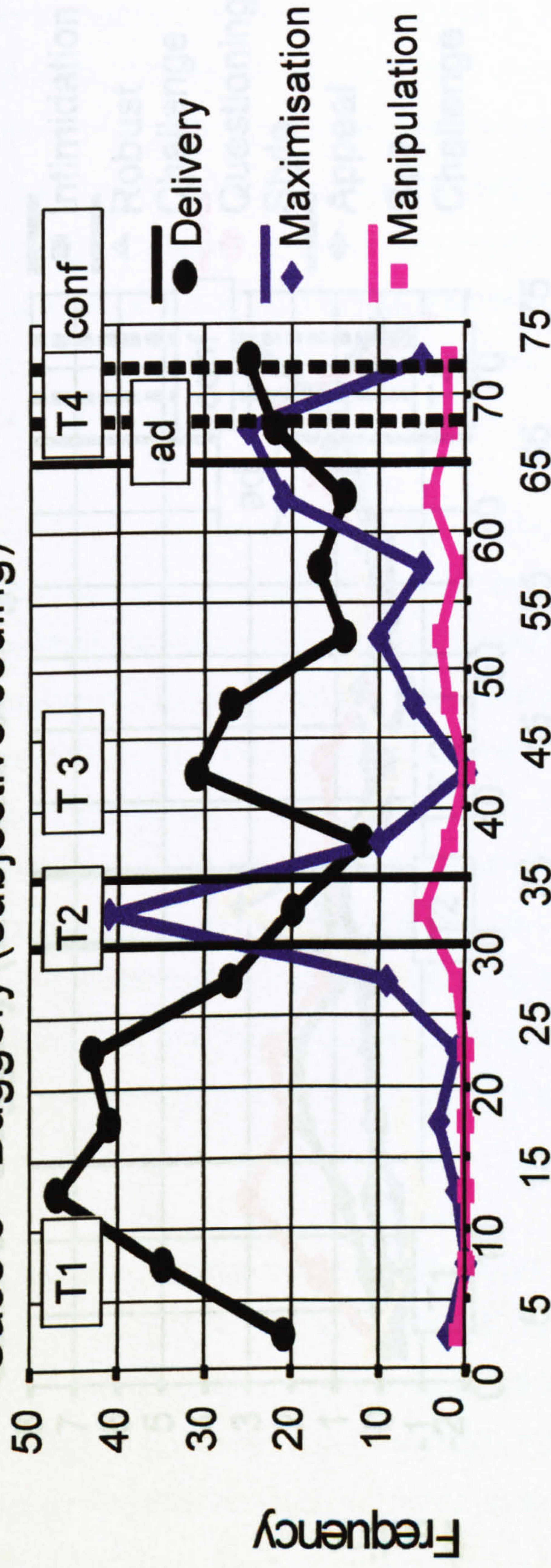
A legal adviser, who introduced herself as a clerk, was present throughout the interview and made a number of interventions. Her first

contribution actually interfered with an attempt by the officers to establish the extent to which the suspect understood what the term 'buggery' meant. In answering for her client ('I think he's aware of what it means') she not only frustrated the officers but also exceeded her role as envisaged under the Codes (see Chapter 7). In the second tape, her contribution was to remind her client of the right to a private consultation. A negative coding was awarded. There was no AA present, although the Custody Record indicates that the Social Services were approached but declined to attend and the matter was not pursued.

This suspect had a FSIQ of 73 which places his intellectual skills at the lower end of the borderline range (bottom 4 per cent of the general population). He was considered to suffer from a significant intellectual impairment. He was also abnormally suggestible in that he readily gave in to leading questions. The more serious charges (buggery) were left on file and he pleaded guilty to lesser offences (indecent assault). He was sentenced to 2 years imprisonment.

It was not an open style of interviewing and the officers did not obviously adopt any particular strategy. Instead they utilised a number of multiple questions or assertions, many of which were (mis)leading in nature and they often only succeeded in confusing the listener. Tape 2 lasted only 5 minutes, but it was very forceful and very challenging. The officers did not work well as a team, e.g., the second officer took over the questioning in T3 and immediately produced a confusing, multiple question. Altogether, it was not a very open or skilful interview, no obvious strategy emerged and the questioning was often forceful and confrontational, with a large number of interruptions. Evaluation. Open - 1: Skilful - 2: Manipulative - 2: Forceful - 4.

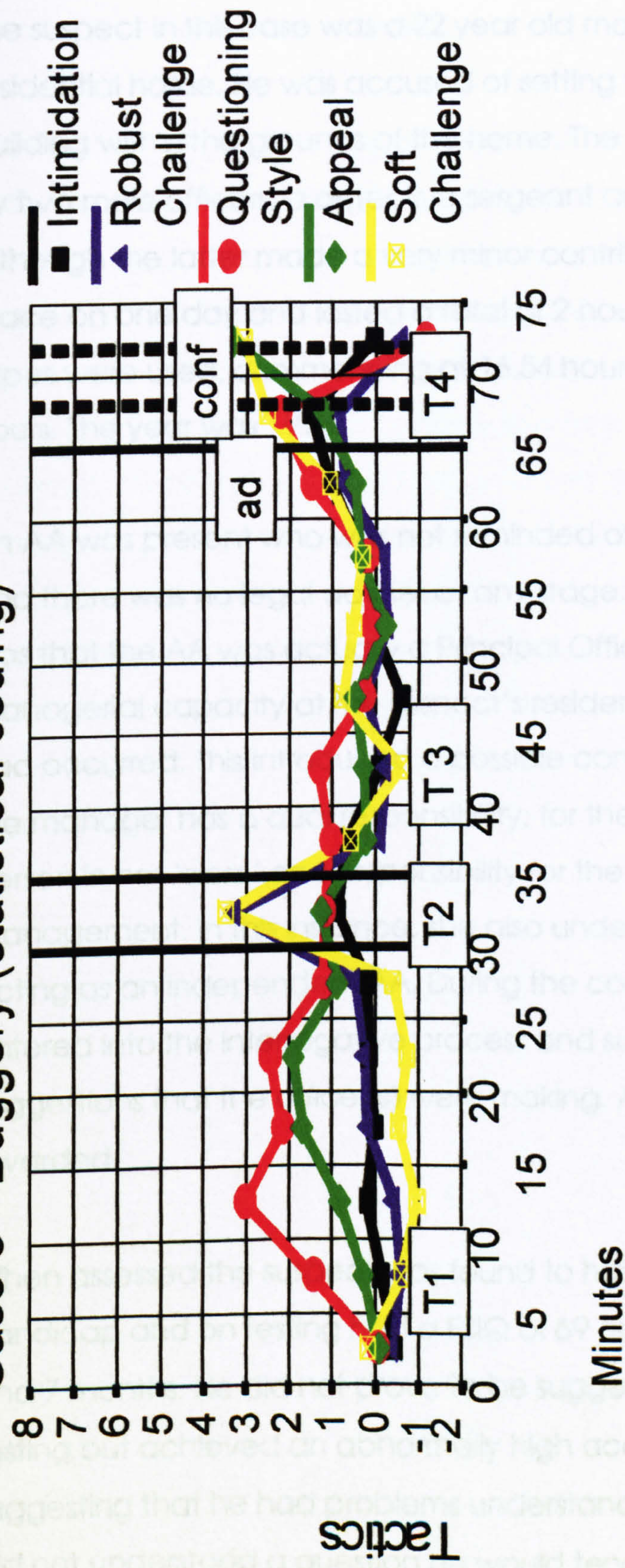
Case 6 - Buggery (subjective coding)



Minutes. Tapes 1 - 4

One of the reasons that this case was chosen was because it provides an opportunity to examine an interview spread over four tapes (single tape cases in this subjective format were rather impoverished. An example may be found in Appendix 3, pp 93-94). According to this graph the dominant factor in T1 is clearly Delivery, which peaks after 15 minutes but continues to maintain a frequency count of above 40 until a decline is noted in the penultimate segment. The factor Delivery was essentially 'how' the tactics were delivered (and as this factor contains the number as well as the type of questions asked, it could be predicted that it is always likely to be a dominant influence). As Delivery declines there is a noticeable increase in the Maximisation tactic, which peaks in the one five minute segment that makes up T2. The tactic Manipulation rarely appears to make an impression (failing to register more than 5 on the Y-axis). In T3 Delivery once more assumes the ascendant role and towards the end of the tape it is joined by Maximisation, although neither factor achieves the frequency recorded in T1. The combination of Delivery and Maximisation lead to an admission in T4, after which the Maximisation factor falls off and Delivery continues until a confession is made.

Case 6 - Buggery (statistical coding)



There are five factors evident in the statistical analysis (Manipulation has been removed). In T1 the first 25 minutes are dominated by two tactics, Questioning Style and Appeal. This is more discriminating than the subjective version and it also tends to confirm a number of theories for this particular type of offence. In sex offences, suspects may be motivated to confess because of a strong internal desire (Gudjonsson and Petursson, 1991) and therefore the most appropriate tactics would be to reassure the suspect and reduce shame (Inbau et al., 1986). The presence of Appeal (appeal, reassurance, interest to confess) and Soft challenge (low tone, shame reduction, evidence) in the first two tapes suggests that this is what is taking place. T2 has a *Marked* use of both Soft and Robust Challenges (cf. only Maximisation in the subjective chart). In the final two tapes there is a distinct increase in all five tactics leading to the first admission. Following this, only Appeal and Soft Challenge are employed through to a confession (again in line with the literature). Apart from providing more detailed information, the statistical chart is more discriminative and (with the standardisation of the factor score in particular) makes it very easy to compare each graph and each case, and also to identify and describe what it is that is taking place.

An introduction to Case 8.

The suspect in this case was a 22 year old male who resided in a residential home. He was accused of setting fire to an unoccupied building within the grounds of the home. The interviews were conducted by two male officers, a detective sergeant and a police constable, although the latter made a very minor contribution. The interviews took place on one day and lasted a total of 2 hours 18 minutes. Three audio tapes were used, commencing at 16.54 hours and finishing at 20.27 hours. The year was 1992.

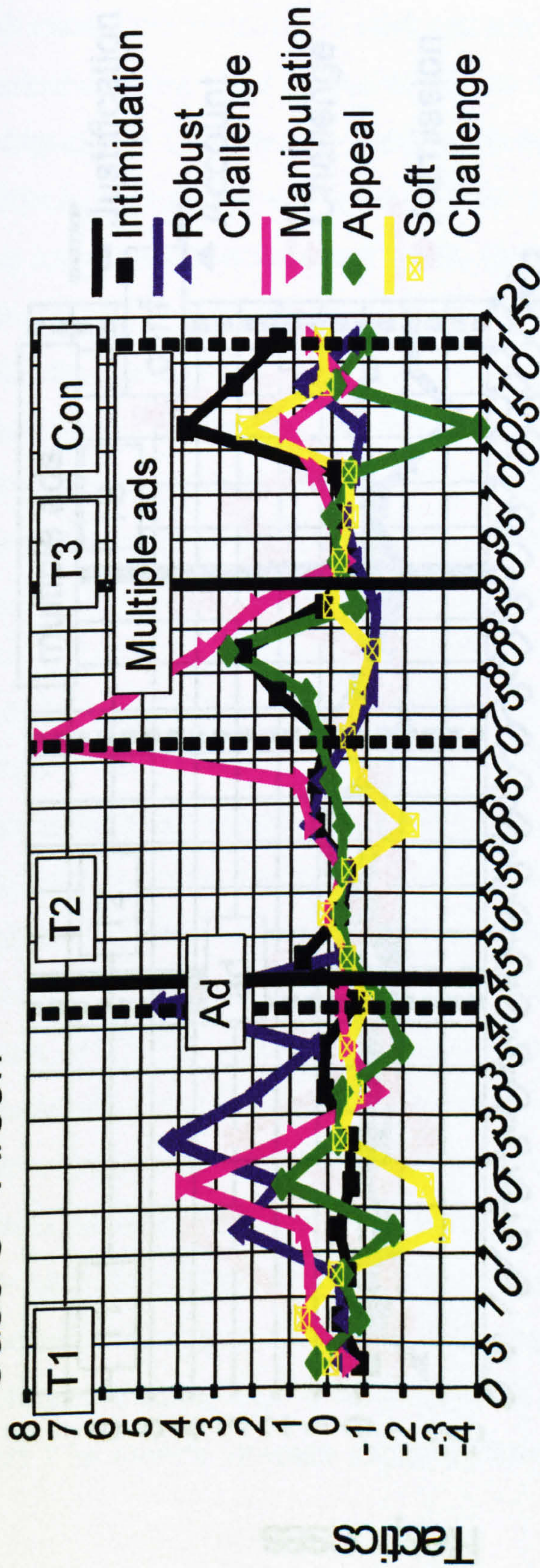
An AA was present who was not reminded of her role under the Codes, and there was no legal adviser at any stage. One interesting feature was that the AA was actually a Principal Officer, employed in a managerial capacity at the suspect's residential home, where the fire had occurred. This introduced a possible conflict of interest. Ostensibly, the manager has a dual responsibility; for the control and welfare of the person in her 'care' and responsibility for the property under her management. In this instance, she also undertook the additional role of acting as an independent AA. During the course of the interview the AA entered into the interrogative process and supported themes and suggestions that the officer(s) were making. A negative coding was awarded.

When assessed the suspect was found to have a long history of mental handicap and on testing had a FSIQ of 69 and a reading age of 7 years and 7 months. He did not prove to be suggestible on psychological testing but achieved an abnormally high acquiescence score, suggesting that he had problems understanding questions and that if he did not understand a question he would tend to answer in the

affirmative. He was considered to suffer from a significant intellectual impairment in accordance with s77 of PACE. These findings led the CPS to offer no evidence at his trial.

The interviews were conducted, essentially by the detective sergeant (DS), who was prone to lapsing into long, verbose and sometimes complex outpourings. On occasions he appeared to be lecturing the suspect, and he succeeded in maintaining a high level of pressure by resorting to five out of the six identified tactics. There was little opportunity for the suspect to provide a free narrative account of events in an interview that started in a very forceful and confrontational manner (numerous interruptions and challenges) and was then dominated by manipulative ploys. Only the opening sequence contained a recognised attempt to adopt a conversational management approach. This case witnessed the highest recorded factor score (7.7 on the Y-axis). Evaluation: Open - 1: Skilful - 1: Manipulative - 4: Forceful - 4.

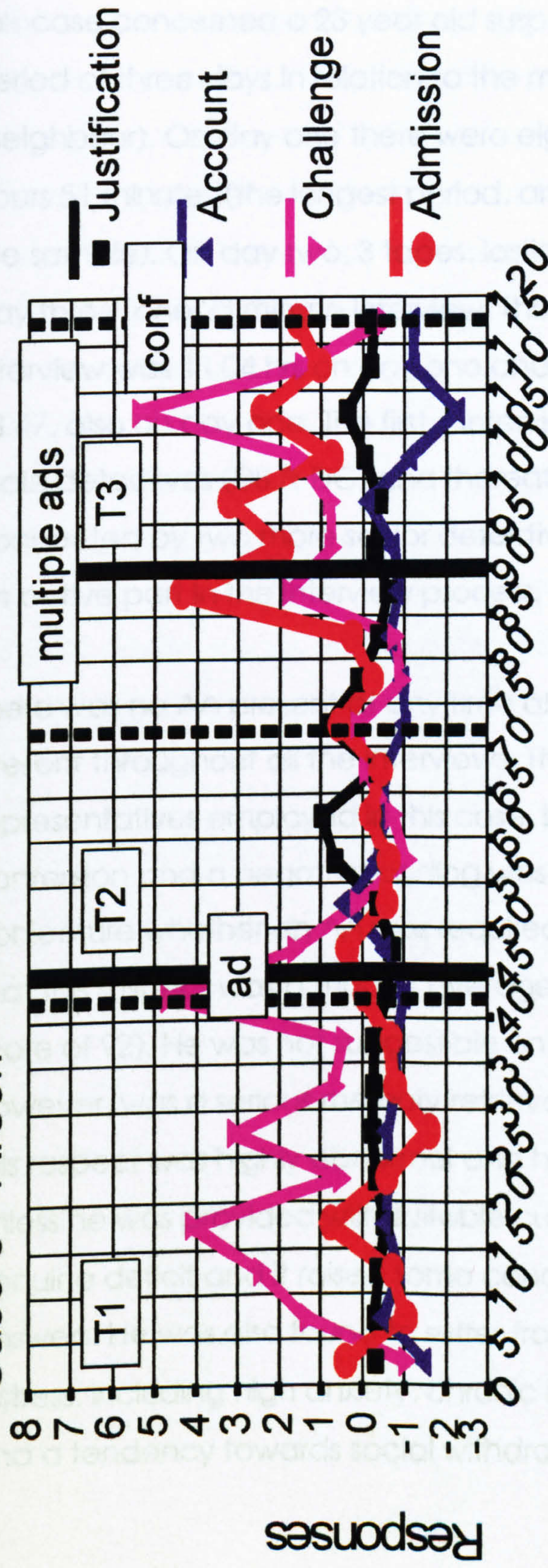
Case 8 - Arson



Minutes. Tapes 1 - 3

The Questioning Style factor has been removed. T1 is dominated by the *Marked* use of Manipulation and Robust Challenging tactics which culminate in an admission just before the end of the tape. This was a fast moving, sometimes heated, exchange between the parties. The officer often interrupted the suspect, 'you haven't told us the truth', 'let's have the truth', 'you have started the fire'. T2 was characterised by a surge in the use of Manipulation which reaches well into the *Extreme* category and a number of further admissions are made following this peak. Such tactics included, minimising the suspects actions, 'I don't think for a minute that you wanted to hurt anybody.' and an earlier theme was constantly reinforced (that the suspect wanted to leave the residential home). The AA was 'used' as someone who might facilitate this process). Later (T3) long passages are evident and Intimidation reaches *Marked* proportions, leading to a confession. This included maximising serious nature of offence, numerous multiple assertions and some threats, 'We are on our 3rd tape, let's not go into a 4th or a 5th.. We don't want to be sitting here for the next 3 days..'.

Case 8 - Arson



Minutes. Tapes 1 - 3

The suspect responds in T1 by Challenging (and denying) the allegations against him even up to the first admission. The **Marked** level of this factor reflects the animated and heated nature of the exchanges. The suspect inadvertently 'admits' to being at the arson location and although he tries to deny this, it is seized upon by the officer. Eventually (during the multiple admissions phase) the suspect accepts the theme advanced by the officer and declares '... I want to leave.' The AA reinforces what the officer is suggesting ('I want you to leave.') and other admissions follow, 'I've done things there to try and get out.' The suspect offers further Challenges in T3 (at an **Extreme** level) because the discussion concerns the existence of two seats of fire and therefore a deliberate act. These initial Challenges then give way to a confession.

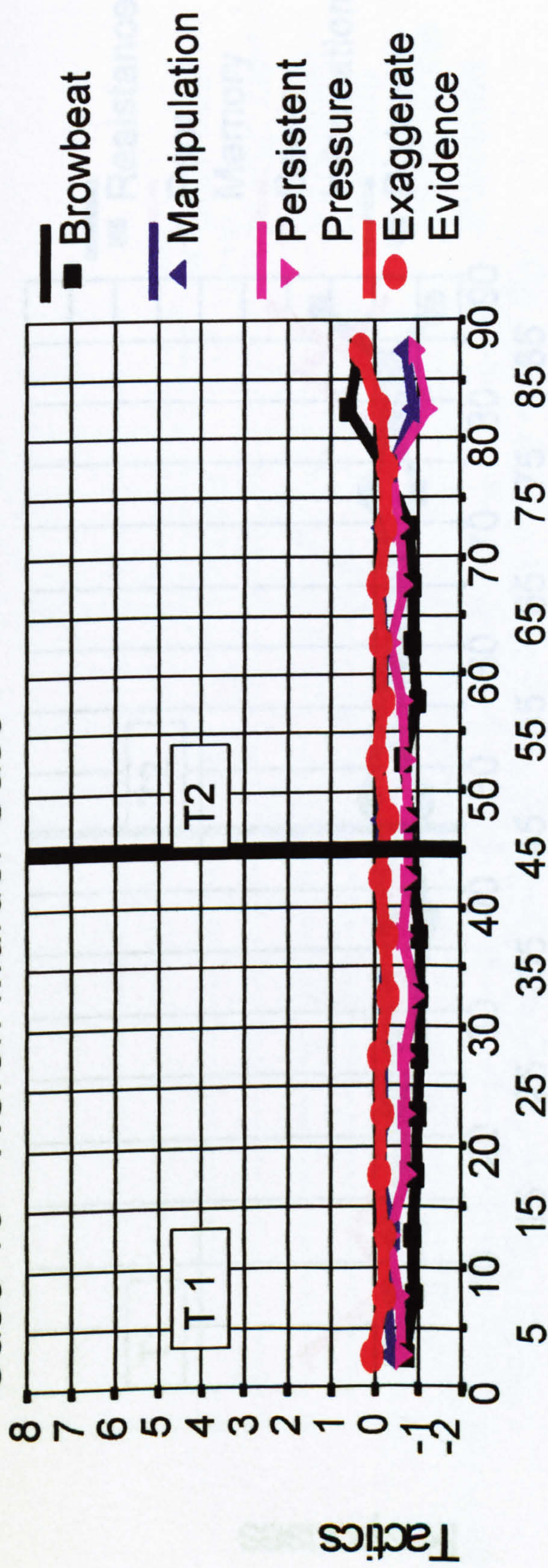
An introduction to the Heron Murder Case (Case 19)

This case concerned a 23 year old suspect who was interviewed over a period of three days in relation to the murder of a young child (neighbour). On day one there were eight tapes of interview, lasting 3 hours 51 minutes (the longest period, and number used, in one day in the sample). On day two, 3 tapes, lasting 1 hr 34 minutes and finally on day three, one 23 minute interview. The earliest starting time for an interview was 11.04 hrs on day one and the latest finishing time was 23.47, also on day one. The first 4 interviews were conducted by two male detectives (DS & DC) and thereafter all interviews were conducted by two more senior detectives (DCI & DI). All officers played an active part in the interview process. The year was 1992.

There was no AA present at any time although a legal adviser was present throughout all the interviews. There were two legal representatives employed in this case, both remained silent prior to the confession and a negative coding was awarded. It is a matter of some conjecture whether an AA was required. Psychological tests indicated that this suspect was a man of average intellectual ability (with a FSIQ score of 92). He was not suggestible on testing. What was detected, however, was a serious memory retrieval problem. His performance in this respect was highly abnormal and he was unable to recall details unless he was provided with suitable cues. This appeared to be a genuine deficit and it raised some concern over the reliability of his answers. He was also found to suffer from considerable emotional distress, including high anxiety, chronic insecurity, paranoid predisposition and a tendency towards social withdrawal.

In the first interviewing phase (DS & DC, 4 x tapes - 2 hours 57 min) a conversational management approach was adopted, but there was no evidence of any rapport building and few open questions, whilst there were examples of poor listening skills. Towards the end, the officers (although not outwardly hostile) adopted a more aggressive pace, challenging events and refusing to entertain 'memory blackouts' as an explanation put forward by the suspect. In the second phase (8 x tapes - 4 hours 45 min - DCI & DI), they embarked on a very forceful, almost relentless onslaught, to break down the suspect's story. The first 4 tapes lasted from 20.38 - 23.46 hours, without a substantive break (possible breach of the Codes). Very inflexible approach adopted, with rigid and entrenched views displayed. Maintained pressure and manipulation throughout. This pair did not work well together, often interrupting each other at crucial stages. After confession, clearly led suspect through questioning. Evaluation. Open - 1: Skilful - 1: Manipulative - 4: Forceful - 4.

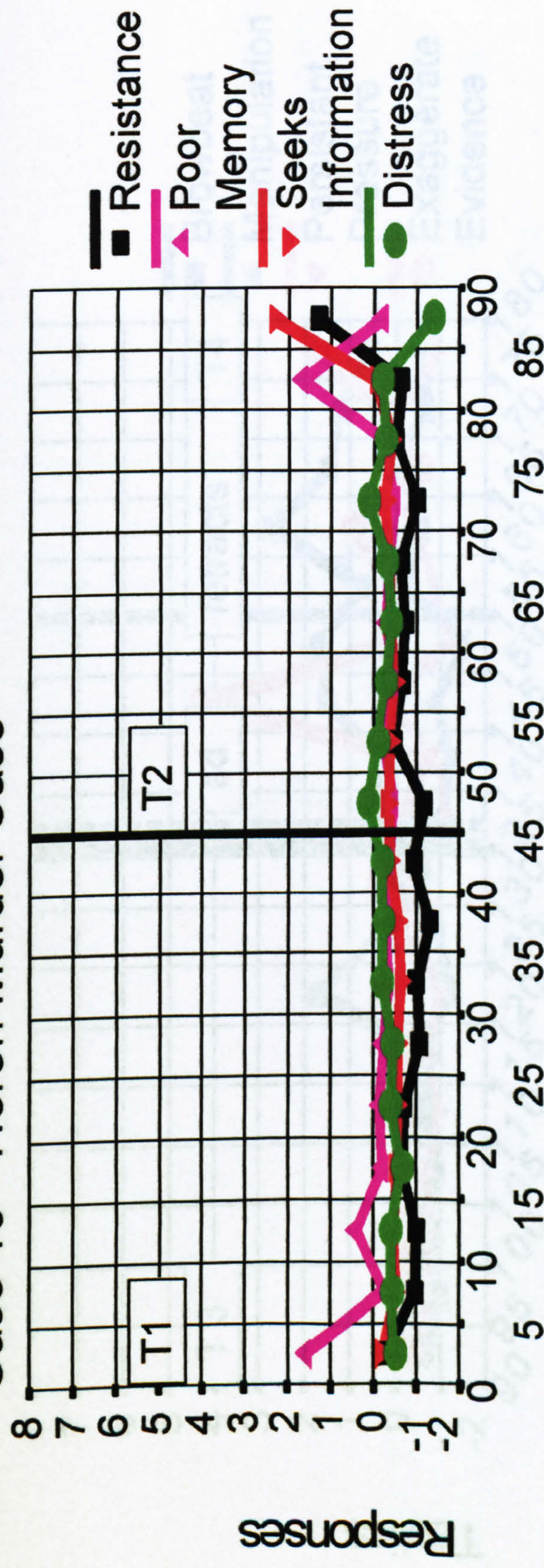
Case 19 - Heron Murder Case



Minutes: Tapes 1 & 2

This chart may be a little confusing as there would appear to be an actual absence of tactics up until the final two segments. Each graph represents only part of the interview and although the scores may have a SD of 1, they may never exceed this score in some graphs. If it were possible to display the entire interview on one page this anomaly would be easier to appreciate. The chart suggests that there are few overt tactics in use until a minimal increase in Browbeat and Exaggerate Evidence is detected towards the close.

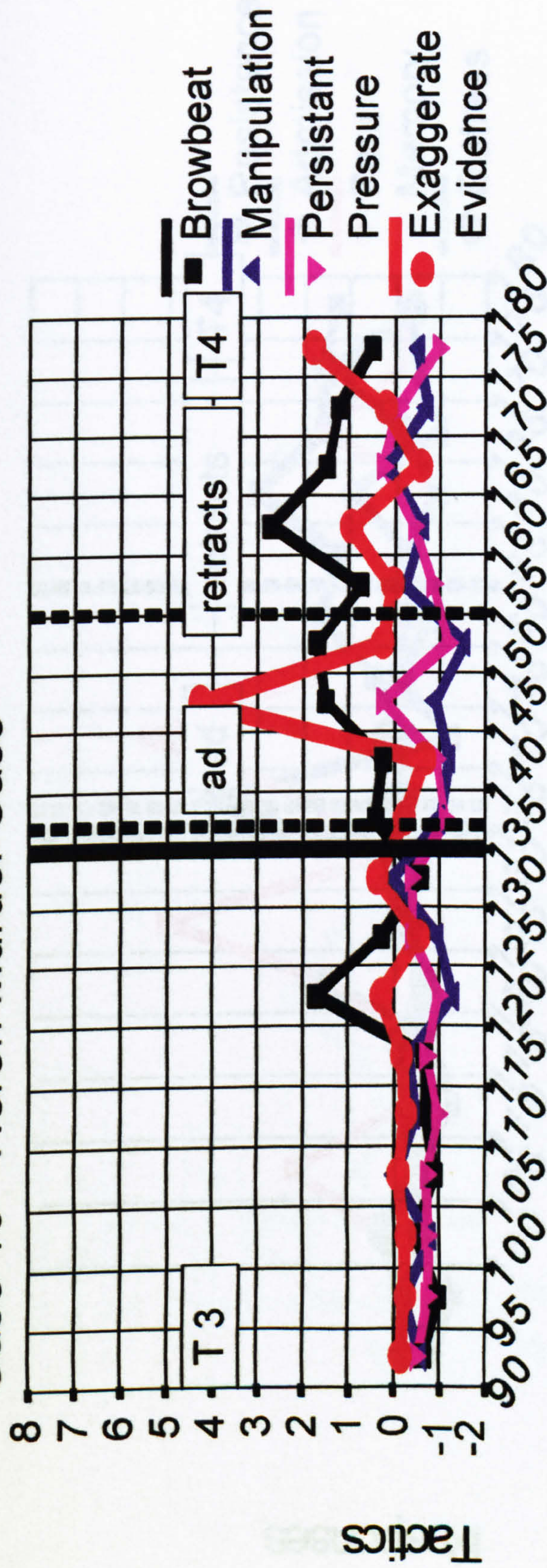
Case 19 - Heron Murder Case



Minutes. Tapes 1 & 2

The Admission factor has been removed. The response factor scores in this chart indicate that from the outset the suspect makes some reference to his memory retrieval problem, which is reflected in the *Moderate* level of the Poor Memory response. In the final two segments the responses, Seeks Information ('Can you actually tell me who else has actually said that they've seen me?'), Resistance ('I didn't murder [her]', 'It is the truth',) and Poor Memory ('I'm not sure I may have done, you see I suffer from blackouts and that effects me memory...') reach a *Moderate* level. These appear to coincide with a slight increase in the use of tactics.

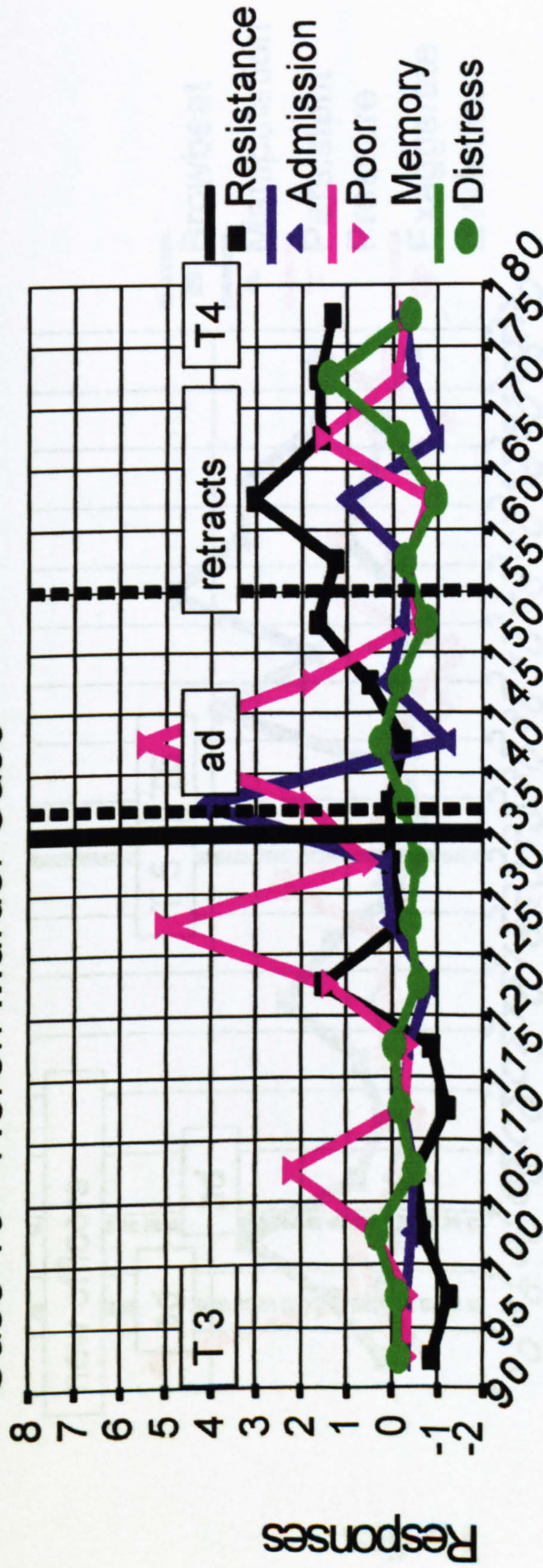
Case 19 - Heron Murder Case



Minutes: Tapes 3 & 4

During T3 only the tactic Browbeat, reaches a *Moderate* level. This increase can be traced to a discrepancy that surfaced, when as a result of initial police enquiries the suspect was seen and denied 'knowing' the victim. In interview he admits he did know her. This is a point that is repeatedly returned to by the officers who challenge his responses as not believable, that 'People identify you, people know you and name you....'. T4 opens with an admission (to being in a public house) and the tactic Exaggerate Evidence increases to a *Marked* level ('Well I'm telling you, you were seen in the Boar's Head that night. Definitely you in the Boar's Head that night.'). Browbeat is present to a *Moderate* degree. This consists of raised voices, challenges and pantomime episodes (Q - '.. you've got a convenient gap. A - 'It's not a convenient gap.', Q - '.. it's a convenient gap...'. A - 'It's not a convenient gap.', Q - 'Of course it is.', A - 'No it isn't.', Q - 'Of course it is.', A - 'No it isn't.', Q - 'It's a convenient gap.', A - 'It isn't a convenient gap.').

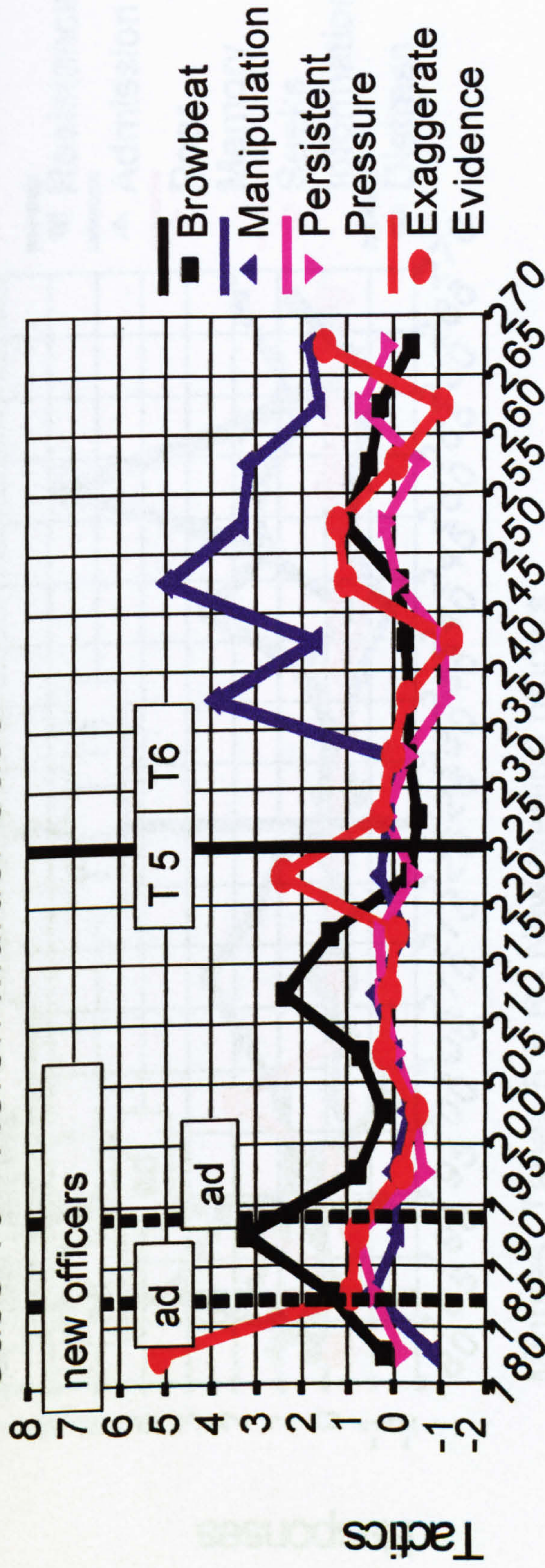
Case 19 - Heron Murder Case



Minutes: Tapes 3 & 4

The Seeks Information factor has been removed. The Poor Memory factor reaches a *Moderate* level in the middle of T3 but climbs to an *Extreme* position just before the close. A *Moderate* increase in Resistance accompanies this second peak which appears to be a response to an increase in the Browbeating tactic. At the beginning of T4 an Admission is made in relation to entering a particular public house and this is reflected with a marked increase in the Admission factor (I may have done, I might have gone in for cigarettes, I don't know) and the Poor Memory factor again peaks at an *Extreme* level. Interestingly, as this factor declines and Resistance increases to a *Moderate* level a retraction is made ('... I didn't drink at all in there that night. In fact I don't even think I was in there that night, I don't remember it, if people have seen me in there I may have been in there that night.'). Towards the end of T4 a small increase in Distress (*Moderate* level) was also detected ('Have you ever tried to think under pressure.... It's not easy to think under pressure.... You are putting me under pressure. I can't think under pressure.').

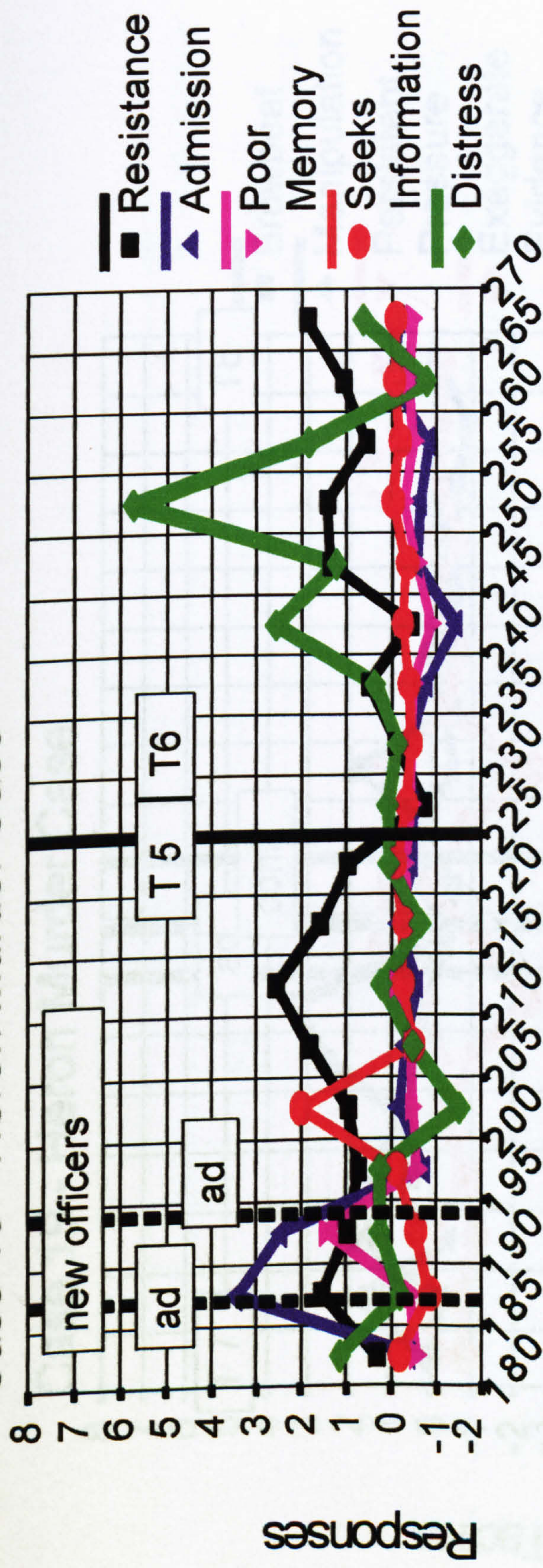
Case 19 - Heron Murder Case



Minutes: Tapes 5 & 6 - New (senior) officers

Two new (and more senior) officers have taken over the questioning. In T5 there are two further admissions early on that appear to coincide with an **Extreme** use of Exaggerate Evidence ('.. we know that you George, were with her round about quarter to ten... we have a witness who saw you... we have other witnesses who can put you in the area..') and a **Marked** use of the Browbeating tactic (pantomime sequences, challenges and multiple assertions). The same two tactics also reach **Moderate** peaks towards the end of T5. In T6 there are two **Marked** Manipulation peaks, the second of which almost reaches an **Extreme** level. This manipulation was very persistent and extensive. It took the form of (a) attacking self-esteem (exploiting lack of sex life), (b) using others (tender age and fondness for victim, 'It was an evil act, it was a despicable act on a little seven year old girl'. At one stage 13 consecutive questions were asked concerning the victim). (c) Reassurance ('.. there is nobody trying to stress you..'), (d) maximising anxiety ('..now how much does it pray on your mind..') and (e) minimising responsibility ('..now we are men of the world... and when it happens... perhaps there is a reason for them doing it..').

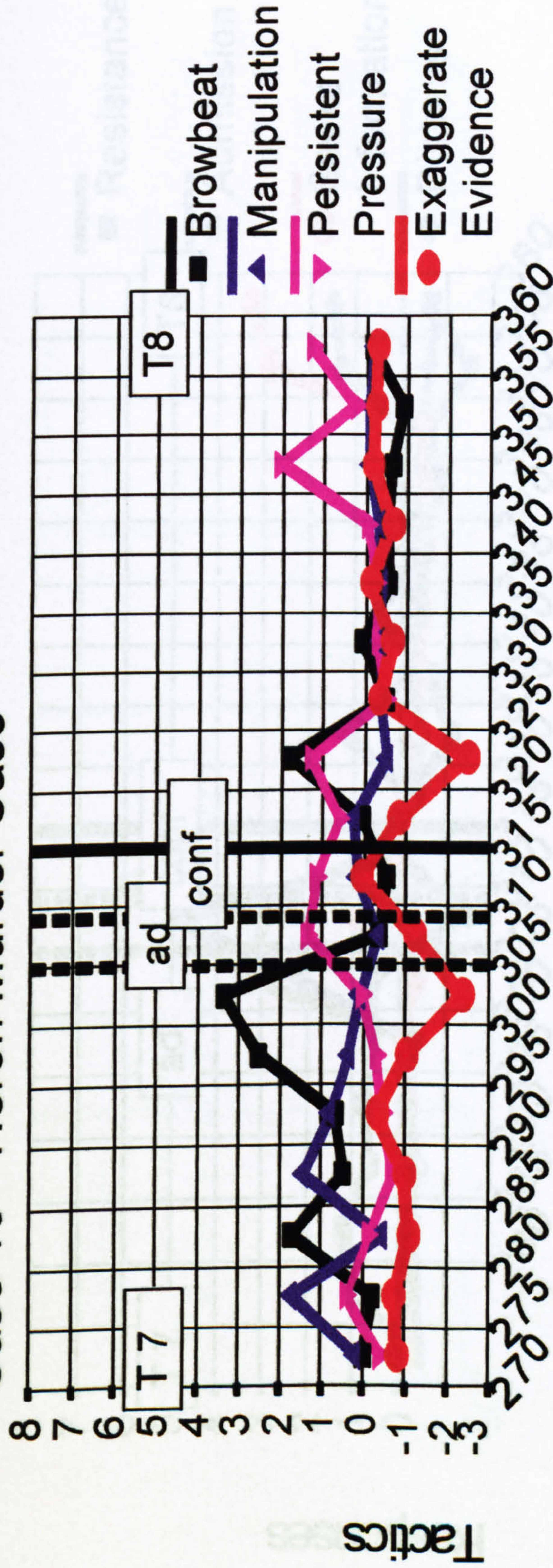
Case 19 - Heron Murder Case



Minutes: Tapes 5 & 6 - New (senior) officers

No factors have been removed. Early in T5 the Admission factor reaches a **Marked** level and coincides with two admissions ('I may have been with her.', and 'She may have done...'). After this the remainder of the graph shows Resistance and Seeks Information reaching a **Moderate** level. In T6 however, the Distress factor has two peaks. The first to a **Moderate** level in the fourth segment, but the second peak in the sixth segment reaches well into the **Extreme** range. These Distress peaks appear to be related to an associated increase in the use of the Manipulation tactic (the questioning has centred on the young victim and the suspect's relationship with her, the listener can detect obvious signs of emotion (sniffing) at questions such as 'Can you still picture her face?', A - 'Yes.', Q - 'Did she ever give you a cuddle?', A - 'No.', Q - 'Did you feel like cuddling her sometimes?' A - 'Once or twice yes'.

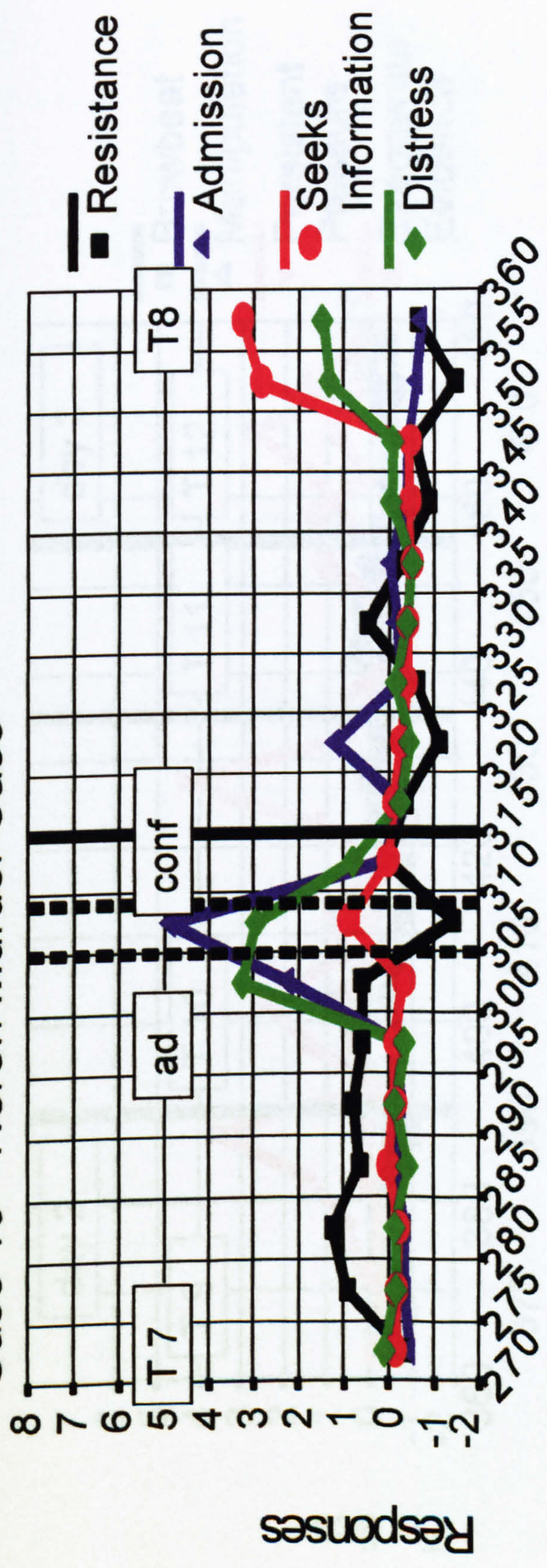
Case 19 - Heron Murder Case



Minutes: Tapes 7 & 8

T7 (which is the third successive tape and the seventh tape of the day) makes use of both Browbeating (multiple assertions, challenges that imply answers not believable) and Manipulative tactics (use of victim, reassurance, minimise responsibility) to a *Moderate* degree in the opening 20 minutes. The Browbeating tactics then increase to a *Marked* level immediately prior to an admission and then a confession, before the end of the tape (these were very much the same type of tactics as those employed at the start of the tape, except that they were delivered with raised voices and the tension in the atmosphere was quite palpable). A *Moderate* increase in the use of Persistent Pressure can also be detected leading up to these admissions (multiple officer, multiple questions). In T8 a *Moderate* use of both Browbeat and Persistent Pressure can be detected in the opening 10 minutes (for example, the suspect is cautioned and asked 'Do you understand that George? but he is given no time to reply, the officer sweeps on). There is also a further *Moderate* peak of the Persistent Pressure tactic towards the end of the tape, which is also the end of the first interviewing day.

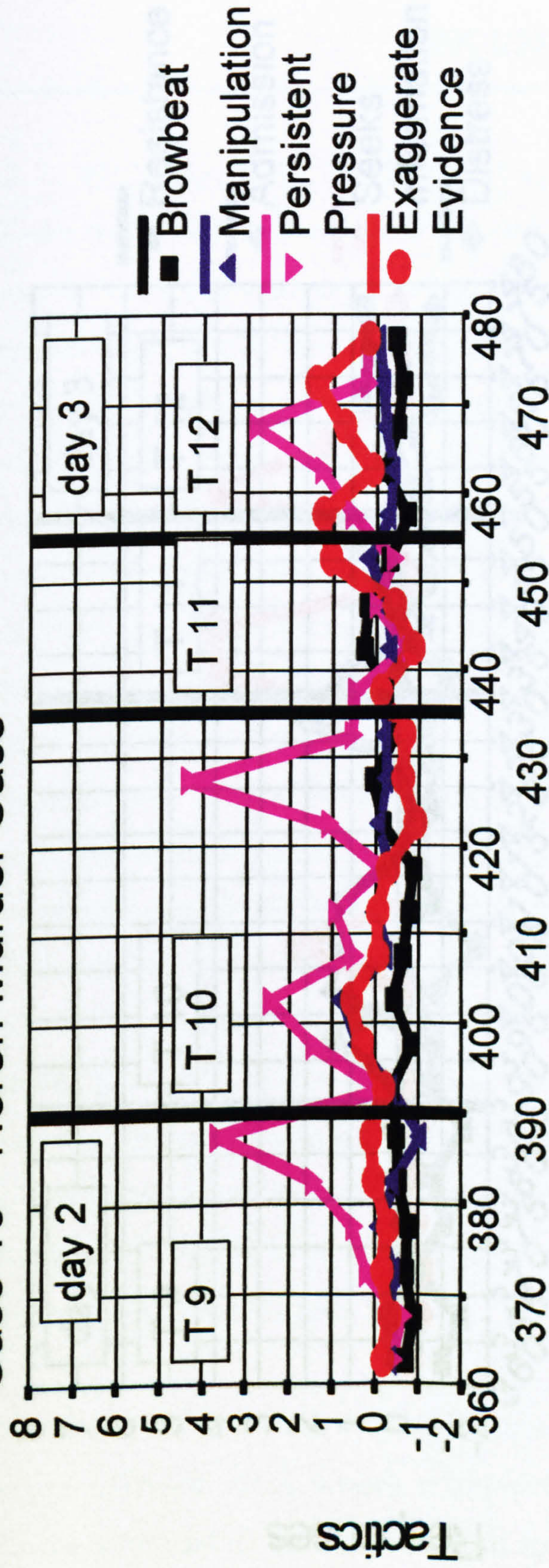
Case 19 - Heron Murder Case



Minutes: Tapes 7 & 8

The Poor Memory factor has been removed. After the response peaks that reached an extreme level in T6, the responses tend to gather within the average range for the first 30 minutes in T7. After this time there is a noticeable and *Marked* increase in the Distress and Admission factors, which appear to occur in response to the animated increase in the Browbeating tactic. This leads first to an admission and then a confession. The Distress factor included evidence of sniffing (after prolonged questioning regarding the vulnerability of the victim) and some of his replies, spoken in low and hushed tones included, 'I'm hurting inside', 'I didn't mean to hurt her' and 'I panicked' (an acceptance of one of the themes put forward by the officers). In T8, after the confession, the responses tend to congregate once more within the average band, until after half an hour when a *Marked* increase in Seeks Information and a *Moderate* increase in Distress is evident. These appear to coincide with the tactic, Persistent Pressure, where the conversation is concerned with what took place, post event. This is a significant stage within the entire interview and needs to be considered in conjunction with tapes 9 - 12.

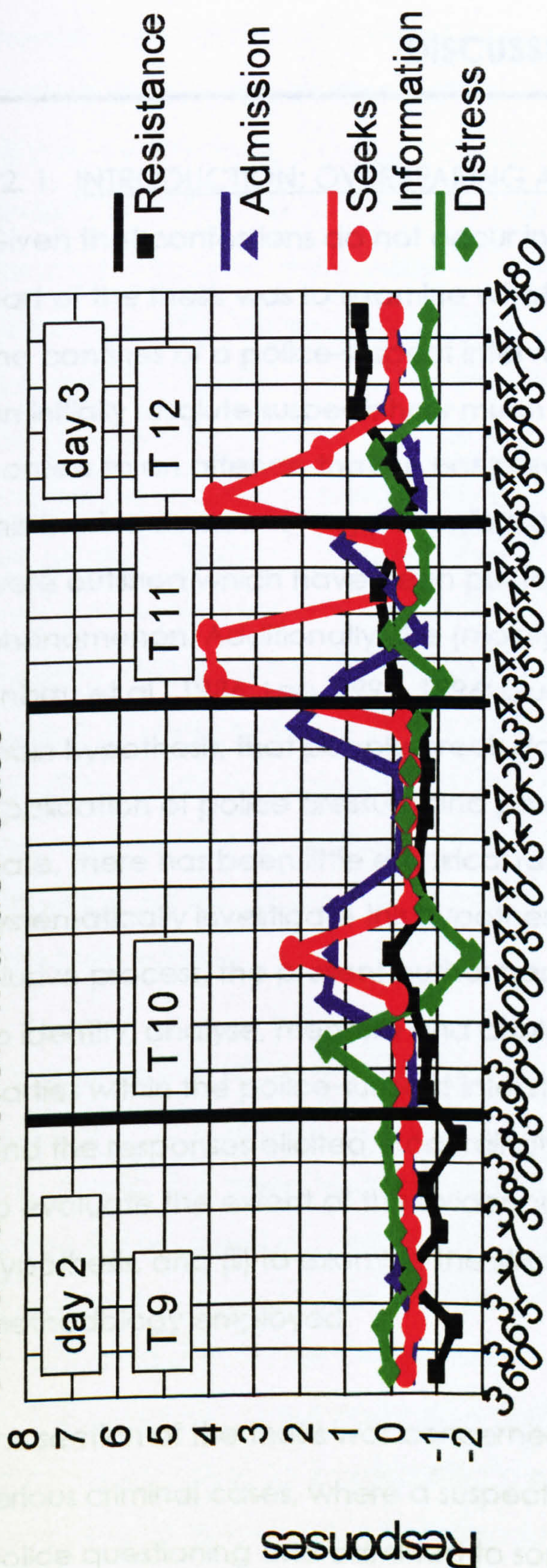
Case 19 - Heron Murder Case



Minutes. Tapes 9 - 11, day 2; tape 12, day 3.

These four tapes of interview take place over two days and tend to be dominated by the tactic Persistent Pressure, which reaches a *Marked* level in both T9 and T10 and a *Moderate* level in T12. In this final tape it is also joined by the factor Exaggerate Evidence, to a *Moderate* level. The reason for the increase in this previously subdued tactic (both officers putting questions one after the other, the use of multiple questions and the use of silence) is that the officers are keen to cement the confession with the disclosure of special knowledge that can only come from the perpetrator, there is no evidence of an increase in Browbeating or Manipulation. For example (in relation to possible wounds on the body), 1st officer, 'Whereabouts? Just where George?', A - 'Just remember wounds', Q - 'Whereabouts George come on, you say you are going to tell us the truth George, come on.', Q - (2nd officer) 'Come on George we are nearly there.', 1st officer, 'I know it is extremely painful but you said you would tell the truth. Whereabouts, come on its coming, whereabouts George?', 2nd officer 'George, you say you have used a knife to cause Nikki wounds, haven't you, yeah?'

Case 19 - Heron Murder Case



Minutes. Tapes 9 - 11, day 2; tape 12, day 3.

In T9 the lack of obvious responses reflects the numerous monosyllable replies that the suspect managed, mainly 'yes' and 'yeah'. In T10, however, there is a **Moderate** increase in Distress, Admission and Seeks Information. This final factor then rises to a **Marked** level in both T11 and T12 and appears to be in response to the continued use of the tactic Persistent Pressure. Ever since the confession the officers have been leading the suspect through their understanding of what took place, e.g., (1st off) 'Did that kill her George, with the brick? George it didn't did it, George? (2nd off) 'There is more isn't there? The suspect does not know and over the final tapes he is clearly guessing and introducing qualifications to his answers according to the prompts from the officers and what information he can glean from them.

CHAPTER TWELVE

DISCUSSION

12. 1. INTRODUCTION: OVERBEARING AND SENSITIVE TACTICS

Given that confessions do not occur in a vacuum, the purpose of this part of the thesis was to examine what it is that is said or done within the confines of a police-suspect interview that succeeds in overcoming an initially resolute suspect; how much pressure is required to make him confess to an offence that he has previously denied? In Part One of this thesis a number of psychological and psychoanalytical models were outlined which have been put forward to help explain this phenomenon. Additionally, the (mainly American) literature in this field (Inbau et al., 1986; Leo, 1992, 1996; Gudjonsson, 1992a) supports the main hypothesis: that people break down in interview because of the application of police pressure and psychological manipulation. To date, there has been little empirical research that has attempted to systematically investigate this hypothesis. In order to examine this rather elusive process, the present author has created a framework designed to identify, analyse, measure and display the interaction between the parties within the police-suspect interview, i.e., the tactics employed and the responses elicited. Accordingly, the aims of this chapter are, (i) to evaluate the extent of the evidence in support of the central hypothesis, and (ii) to examine the strengths and weaknesses of the methodology employed.

This section of the thesis was concerned with a sample of 20 very serious criminal cases, where a suspect (on the audio-tape) gave in to police questioning and admitted to something that he had previously denied. The examination entailed coding the tactics and responses in

each five minute segment of each interview, and these were then subjected to a factor analysis. Six factor analyses were conducted. Two murder cases (Miller and Heron) were of sufficient duration to be treated as separate entities (both tactics and responses) and the other 18 cases were analysed as a combined group. The combined factor analysis produced six tactic factors, accounting for 38.2 per cent of the variance. These were identified as: Intimidation (10.5%); Robust Challenge (7%); Manipulation (5.8%); Questioning Style (5.3%); Appeal (5%) and Soft Challenge (4.7%). The factor analytical approach also standardised the individual factor score and the present author has provided a number of descriptive labels according to the degree of use for each factor. The lowest level was referred to as *Average* (where it did not extend beyond plus or minus 1 standard deviation - SD).

Moderate, was the term used to describe the next level (between 1 and 3 SD), followed by *Marked* (3 to 5 SD) and finally an **Extreme** level (over 5 SD). Given that the main focus is the identification of what it is that is said or done that leads a person to confess, the majority of this discussion will be centred on the tactics employed rather than the responses elicited.

It is appropriate at this juncture to note that it was not possible to achieve a comprehensive psychological profile for every suspect in the sample. The need to appreciate an individual's psychological vulnerabilities (level of intelligence, suggestibility, acquiescence and so on) within the context of the whole case has already been emphasised in some detail in Chapter Three. Whilst the absence of such knowledge at this stage may limit an appreciation of all the factors responsible for overcoming a suspect's resolve, it is important to remember that this thesis is concerned mainly with attempting to identify and measure the amount of pressure applied leading up to a

confession. So, whilst the important role of individual psychological characteristics is fully acknowledged, it does represent a secondary issue. Having said that, it has been possible to provide the FSIQ score for each individual. On examination, the mean FSIQ score for the entire sample was found to be 79, which falls in the 'borderline' category. Despite this rather 'poor' attainment level this finding is similar to previous studies (Eysenck and Gudjonsson, 1989; Gudjonsson, 1990a). In the Royal Commission Study (see Chapter Five) the average I. Q. score (taken from a larger and more diverse population) was only 82. These findings, not only indicate, the limited intellectual capacity of the suspects in this thesis, but are also a reminder that the forensic or prison population in England and Wales tends to function intellectually, in the 'low average' or 'borderline' range. This has important implications for police practice and training.

The legal judgements handed down in the Miller and Heron cases represent landmark decisions (post-PACE) in respect of the Courts' views on the excessive use of illegitimate pressure applied by the police during a police-suspect interview. It seems wholly appropriate therefore, that this thesis will seek to rely on the judgement of the Courts for the purpose of establishing what is, and what is not, an acceptable level of interviewing pressure. One immediate question that arises is whether or not there is a relationship between the level of tactics employed in each case (as measured by the framework developed in this thesis) with the subsequent judgement of the Court? Put another way, what evidence is there in support of the validity of this framework? Regrettably, the small sample makes it difficult to generalise to other criminal cases, but in general terms, there does appear to be a strong positive relationship (as the descriptive summaries provided in Table 11. 7. above indicate).

One immediate feature of the results presented in Table 11. 7. for example, is the large number of cases which were dismissed by the Courts for the use of oppressive or coercive interviewing tactics. If the 9 cases where a guilty plea was entered are removed, 8 out of the remaining 11 cases (73%) were dismissed because of irregularities concerning the conduct of police interviewing tactics which raised serious questions over the reliability and admissibility of the finished product. This was so whether the interview took place on one day and lasted 24 minutes, or was spread over five days and lasted nearly 13 hours. Returning to the relationship between the framework and legal judgements, in 17 out of the 20 cases (85%) a confession was elicited by tactics that reached at least the *Marked* (pressure) level.

One tentative finding that has emerged from this limited sample, is that where 'overbearing' factors (Intimidation, Robust Challenge or Manipulation) are employed to an *Extreme* level, then a court is more likely to find such tactics to be oppressive or unreliable and therefore inadmissible. This hypothesis was tested (with a Fisher Exact Probability test - for reduced sample size) and a significant result was obtained ($p < .02$: see Table 11. 8. above). Out of the 20 cases, there were eight in which the factors that were used reached an *Extreme* level, and in only two of these 8 cases did the factors relate to the less confrontational, more 'sensitive' tactics (Appeal and Soft Challenge), both of which were allowed in evidence by the Courts. The other six cases, where 'overbearing' tactics were employed to an *Extreme* level, were ruled inadmissible. It would appear, therefore, that whilst such 'overbearing' tactics are unacceptable to the courts, they may be prepared to allow in evidence *Extreme* levels of the more 'sensitive' factors and allow the jury to be the final arbiter. These initial findings

suggest that there is indeed evidence to support the main hypothesis and indicate that a closer examination of all the cases may help to illuminate this proposal further. This represents an important initial finding for the development of this framework.

In order not to lose the valuable information that has been captured in each case, it is proposed to examine the amount of interrogative pressure applied by analysing the sample according to the nature of the crime under investigation. This can be justified as the research literature and theoretical evidence in this field suggests that the actual nature of the crime under investigation may require specific tactics (e.g., in sex related offences, whilst there may be a strong internal desire to make admissions associated with a sense of guilt, this may be inhibited by feelings of shame, and such inhibitions are best overcome with a gentle or sensitive approach - appealing to the suspect's character or employing discreet manipulation - Inbau et al., 1986; Gudjonsson, 1992a). This literature suggests a natural division between sex related offenders and others. Table 11. 7. has been organised according to the actual nature of the crime; sex, arson and violence.

12. 2. CASES 1 - 7: SEVEN SEX RELATED OFFENCES

There are only two examples in this group where *Extreme* factor levels are employed. The first concerns an allegation of rape made against a 15 year old youth (Case 3); the second relates to an allegation of incest, where a 55 year old man is accused of raping his daughter (Case 7). The tactics employed were ruled to be unreliable and inadmissible in the former case (where the suspect was found not guilty by the jury) whilst the tactics were allowed in evidence in the latter and the defendant was found guilty by the jury, at the conclusion of a contested hearing.

The case involving the juvenile defendant (Case 3) was actually the shortest in the entire sample, at 24 minutes, but in that time the use of the Intimidation factor reached *Extreme* proportions, with the interview degenerating into a heated argument with raised voices on both sides and frequent angry exchanges. The tactics included emphasising the serious nature of the offence, increasing the suspect's anxiety and emphasising the distress and vulnerability of the victim ("... you are here under arrest for rape", "..not for jay walking across the road, for rape". "Do you realise how serious this is." "She's gone through hell since three o'clock this morning, ..she would not have done that if she had consented to having sex with you." and "She trusted you, didn't she? And you let her down didn't you?", "You really owe it to her to tell the truth, don't you?"). Despite the hostile nature of these tactics, or even the volume and tone of the overall interview, the legal adviser and AA present, did not intervene.

The other relevant case in this sub-group (Case 7) represents a striking example of the type of tactics recommended for offences of this nature: tactics that are concerned with shame reduction, often delivered in a low tone yet firmly emphasising the evidence in the case. This was the only example of the *Extreme* use of Soft Challenge in the entire sample. The 'overbearing' factors, Intimidation and Robust Challenge have been removed. The main approach adopted by the officers was to emphasise, in some detail and quite persistently, the evidence provided by the victim ('Can you remember saying that you wouldn't hurt her and that it would be all right? Can you remember reassuring her?', '[she] goes into quite some detail don't she about all the things that she can remember?'). The officers made references to statements made by the victim and witnesses and, where necessary,

read out a verbatim account, often timed to refute the denials of the suspect.

It is interesting to note that this suspect coped with the increasing amount of evidence by indulging in a classic example of 'projection', apportioning blame on the victim. For example, '.. she come out of the toilet stark naked and she said it's alright she said, I've seen you and she forced me hand on to her, down there and I pulled away...', and '... she was more or less asking me to touch her, do something.'

These two cases support the suggestion that the current framework not only represents a measure of the level of pressure applied during a police interview, but that it is also successful in discriminating between what is an acceptable and what is an unacceptable level, according to legal criteria. In general terms, *Extreme* levels of the more 'overbearing' factors have been ruled oppressive or unreliable, whilst *Extreme* levels of the more 'sensitive' factors, have been admitted in evidence.

Of the remaining five cases in this sex offence group, four pleaded guilty to the offence (or to a lesser charge) and in the one contested case a not guilty finding was returned. All of these five cases contained the use of interview factors ('overbearing', 'sensitive' or a combination) at a *Marked* level. In only one case, does this level relate to the isolated use of a 'sensitive' factor (Case 4), where the Appeal factor dominated. The initial implication from this finding is that interview factors which are pitched at such a level (irrespective of whether they are 'overbearing' or 'sensitive' in character) appear to be more likely to be acceptable to the Courts, although each case would of course need to be considered on its own merits. Although it is not possible to

generalise to all serious criminal cases from this restricted sample, the significant findings from Table 11. 8. ($p < .02$, Fisher Exact, 2-tail) provides additional support for this assertion. This indicates, that of the 12 cases where the tactic factors reached at least the *Marked* level, 10 proved acceptable at the court of trial and only two were ruled inadmissible (these two proved to be very illuminating and will be discussed shortly). This is a further indication that the Courts might be more likely to accept this level of tactics in evidence, especially when compared to the *Extreme* level, a proposition that will be discussed further.

A number of other important findings also emerge from an examination of the tactic factors in terms of the two groups, 'overbearing' (Intimidation, Robust Challenge and Manipulation) and 'sensitive' (Appeal and Soft Challenge). Questioning Style may belong in either camp, as it is essentially how the questions were delivered. The literature (Inbau et al., 1986; Gudjonsson, 1992a) suggests that the 'sensitive' approach would be more likely to be adopted in sex related offences and this is exactly what we find in this sample. According to the prevalence of tactics outlined in Table 11. 7. above (see Column 2) the sample can be broken down into 12 'overbearing' cases (1-3, 5-7, 12-14 and 18-20); five 'sensitive' cases (4, 8-11) and there are three neutral cases which are not dominated by either group of tactics (15-17). Of the five 'sensitive' cases, 4 (80%) are to be found in the sex related offences. This finding just failed to reach a significant level ($p = .06$, Fisher Exact, 1-tail; see Table 11. 9. above).

Another proposition suggests that if the nature of the tactics are qualitatively different, then there should also be a difference associated with the amount of skill and openness attached to each interview. In other words, officers who resort to coercive or hostile

tactics are likely to be judged less skilful or open than their counterparts who adopt a more sensitive or sophisticated approach. It does not demand a great deal of preparation or cunning for example, to constantly interrupt, shout or continually dispute what a suspect may be saying. On the other hand, a degree of patience and forethought is required to empathise and reassure an emotional suspect. If we examine the overall evaluation of the officers' performance (Column 5, Table 11. 7.) the results indicate that those officers who tended to utilise a predominantly more 'sensitive' approach scored higher on the rating 'Open' and 'Skilful' and lower for 'Manipulative' and 'Forceful'.

The mean score for the 'sensitive' group was 2 and 2.2 (Open and Skilful, max. range 1-4), which compares with 1.4 and 1.6 for the 'overbearing' group. In terms of Manipulation and Forcefulness the opposite was found. Here the 'sensitive' group scored 2.8 and 2.8, respectively, which was not as high as the 'overbearing' group which scored 3.7 and 3.3 (max. range 1-4). This hypothesis was investigated using a Mann-Whitney test for two independent groups. The findings were significant in relation to the 'sensitive' group employing a more 'Open' and 'Skilful' style than the 'overbearing' group ($p=.05$ and $p<.05$, 1 tail, Mann-Whitney, respectively). A significant difference was also detected in relation to the category 'Manipulative'. Here the officers resorting to 'overbearing' tactics were significantly more likely to be awarded a higher score than officers employing more 'sensitive' tactics ($p<.05$, 1-tail, Mann-Whitney: see Table 11. 10. above). In relation to 'Forcefulness', the mean for officers employing an 'overbearing' style of tactics was greater than the mean of those employing 'sensitive' tactics, but this was not found to be significant.

Of the entire sample, Case 4 was awarded the highest overall evaluation, scoring only 1 for 'Forceful' and 3 for all other categories. In this case the officers took their time to establish family details, and evidence from the victim was introduced in a mild and often low voice. Attempts at shame reduction were also present: "Ok, we're all men of the world, we all understand what these things are, now I want to ask you some fairly personal questions about your history." The most obvious tactic used was that of Appeal which included elements of reassurance and a large number of silences: "I'm asking you now to tell me the truth." and also, "As I understand it you are a man of previous good character, show that character by admitting to what you've done". "I appeal to your good character, your previous good character to tell us about it." In this case the suspect, who was accompanied by a most able solicitor, later went on to plead guilty to the charges and received a substantial period of imprisonment.

2. 3. CASES 9 - 11: FOUR ARSON CASES

All four cases contain examples of the *Extreme* use of interviewing tactics and in all four cases, no convictions were achieved at court. If, however, these features are examined more closely, it is apparent that Case 11 does not quite share the homogeneity of the other three. For example, Cases 8 -10 were dismissed at the Crown Court stage specifically because of the oppressive nature of the interviewing tactics which (when considered within the full context of each case) rendered the interview evidence inadmissible, whereas the circumstances surrounding Case 11 were fully debated at the Crown Court and the interview evidence was allowed in evidence. It was left to the jury in this last case, who subsequently returned a 'not guilty' verdict.

Case 8 is characterised by the *Marked* use of Intimidation and Manipulation early on and later in the second tape by the *Extreme* use of Manipulation (this case witnessed the highest level of *Extreme* tactics in the entire sample). This Manipulation included, minimising the suspect's actions ("I don't think for a minute that you wanted to hurt anybody.") and one particular theme was constantly reinforced (that the suspect wanted to leave the home). The AA also featured in this tactic and was 'used' as someone who might facilitate this process. (e.g., 2[*she*] is standing behind you and she has said she is willing to take you back even though you have done it" [he had not confessed at this stage]). The AA also reinforces the theme that the officer is suggesting when she volunteers information, and other admissions follow. In Case 9, we see the *Extreme* use of Robust Challenge (52 'continual dispute' tactics recorded in 22 minutes) and again the *Marked* use of Intimidation. Case 10 is a further example of the *Extreme* use of Manipulation. The officers again introduce a number of themes which in time, are apparently accepted by the suspect.

These three cases all contain examples of the *Extreme* use of 'overbearing' tactics. It makes a great deal of intuitive sense, therefore, that the excessive or unbridled use of any combination of these three factors (Intimidation; Robust Challenge; Manipulation) is likely to increase the chances of the resultant interview evidence being ruled inadmissible by the courts. The same could not be said in relation to Case 11. This was characterised by the *Extreme* use of Appeal, the fifth factor to emerge from the analysis. Its salient loadings (appeal, reassurance, use of silence and suggestions that it is in the suspect's interest to confess) are intrinsically less coercive, forceful or deceptive than the constituent parts of the first three factors (maximising anxiety and the seriousness of the offence, challenging

answers as not believable, accusing the suspect of lying, continual disputes, interruptions, manipulation of details and self-esteem, the use of others or introducing themes or scenarios).

In the fourth case, Intimidation and Manipulation were actually removed from the graph having failed to be employed beyond the *Average* range, and Robust Challenge was only present at a *Moderate* level. In many respects therefore, this last case was qualitatively and quantitatively different from Cases 8 - 10, which were synonymous with an aggressive and domineering approach on the part of the officers. At times the atmosphere in these three cases could justifiably be described as hostile and there was often a relentless or 'driven' dimension attached to the delivery of the questions used.

What was particularly interesting about Case 11 was that the use of the Appeal tactic was not confined to the interviewing officers. The AA (the suspect's father) took an active part once he had been drawn into the conversation by the police officer, at a crucial stage ("Look boy I want the truth, that's all I want, the truth. What I want is just the truth I mean some of what's been said I find it's a little bit like fantasy land. But I want the truth.... The truth... just say what happened, tell the truth that's all"). Given the nature and extent of the father's contribution (only some of which has been reproduced here) the majority of his interventions were classified as tactics, as they were likely to have had a considerable impact on the decision making process of the suspect. Indeed, the father's questions are likely to have been crucial because they were uttered just prior to the first admission. Detailed feedback in this case reveals that it was only after the matter was fully debated in the Crown Court, that the AA became fully aware of how he was 'used' by the police officer. As a result of this

manipulation, he now harbours deep feelings of resentment against the interviewing officers.

12. 4. CASES 12 - 18: SIX VIOLENCE AND ONE UNRELATED CASE

This group contains the three examples of the 'neutral' category of tactics and the two cases (robbery) where the tactics failed to extend beyond the *Marked* level, but where the interviews were still ruled inadmissible at court (contrary to our earlier hypothesis, see Table 11. 8. above). The robbery offences (Cases 13 and 14, Table 11. 7. above) are particularly interesting as the tactics failed to exceed a *Marked* level of Manipulation in Case 13, and failed to extend beyond even a *Moderate* level in Case 14. As this thesis has often emphasised, each case needs to be examined on its own merits and these two examples contain a number of unusual features which may explain why they do not appear to conform to the general hypothesis discussed above.

Case 13 consisted of three tapes of interview and lasted a total of 86 minutes. It is evident from the graphs (please see Appendix 3, pages A3/48 - 51) that there is little activity present in the first tape. The reason for this is that the interviewing officers resorted to asking a series of extravagantly long and detailed questions. In some instances, the questioning was so verbose that it would often extend beyond the five minute segment. Some questions actually lasted between six and seven minutes. In fact, questioning is probably an inadequate term, perhaps lecturing might be more appropriate. These 'lectures' were not only particularly long but they gave the officers an opportunity to manipulate the strength and credibility of the evidence against the suspect. One of the main themes that they resorted to, was to distort the strength of the evidence from the suspect's estranged wife and from his girlfriend. Although the evidence was essentially hearsay in

nature, it was presented as though it would represent substantial, credible evidence. The second tape witnessed an increase in Manipulation and a sharp rise in Intimidation. Indeed, the officers resorted to most of the individual tactics that make up the Intimidation factor and it was the degree and extent of this onslaught (from this one case) that was responsible for labelling this factor, 'Intimidation'. Some selected extracts may help to demonstrate this point:

"Both the women in your life wonder if they are both being used by you..... I've offered you a deal. Offered you an incentive....are you going to take the risk of lots and lots of charges?"

"All of a sudden, he is confronted with three men. Two carrying knives and one with a hammer. One holds a knife to his throat. Imagine the terror that would be. Some people would shit themselves when that happens. Imagine the absolute terror that must inflict on somebody..... What about the guilt you must feel for that? There has got to be some shame in that, en't there? Not you, sat here feeling sorry for yourself just because your Missus has made a statement against you. That's just selfish."

"Let's face up to facts. Accept responsibility. You couldn't accept responsibility for your missus and kid."

"There are people who go out and break into offices.... don't do anybody harm,but there are those that go in and cause terror and that's what you have done. And I wonder whether you are responsible for [the other suspects] being in their situation.,"

"Am I getting through to you? Am I making you understand? I thought I could talk to you..... but when I

heard some of those things you had done, I was horrified....
But why have you become the motivator? Why have you
become so aggressive? Why have you had to sink to the
depths of violence and force that you have on people?
You got some shame and boy, you should have."

On inspection, the intimidation factor in T2 is only just short of the *Extreme* level, in fact, it reached a score of 4.94 (where 5 represents the boundary). It is likely that had the officers resorted to the more conventional use of single (or even shorter) questions, then this factor would have entered the *Extreme* level. It did not come as a surprise to learn that the expert psychological witnesses (defence and prosecution) were in full agreement that the police in this case had resorted to the use of considerable pressure and psychological manipulation, which distressed the suspect greatly. In many respects, therefore, the current coding framework accurately reflected the extent and intensity of the 'overbearing' tactics employed.

In the second robbery offence (Case 14) it was the responses that reached an *Extreme* level. This case was also unusual for a number of other features. First, the high level of responses shown in the graph (please see Appendix 3, pages A3/52 - 55) do not correspond to, or reflect the dominance of a particular tactic, i.e., the *Extreme* factor 'stands alone'. The second feature concerns the leading nature of the officers' questions. These were not only very leading but the suspect was often provided with the 'answer' in the question. For example,

Officer '.. was it on or off when you went back or can't you
remember, 'cos you've been taking drugs?'

Suspect 'I can't remember'

Officer 'And then what happened, did you push past him?'

Suspect 'Yeah, we'd've pushed past him.'

Finally, there was some evidence of an earlier pre-tape conversation, the full details of which were not openly disclosed on tape. This is a particularly unusual case and the graphs confirm that there is a distinct lack of symmetry between tactics and responses, and it is therefore worthy of closer inspection. At the trial, the defence asked for the interview evidence to be ruled inadmissible as the officers had breached the PACE Codes by failing to have an AA present. Their application was granted and the suspect was found not guilty on the directions of the judge.

It may be profitable, before moving on to discuss the Heron and Miller murder cases, to consider how the findings from this analytic framework have been linked with the relevant judgements of the Courts. The results have provided a healthy 'fit' between these two measures. Employing this framework, it is possible to say that not only do people breakdown in interview because of police pressure (within this sample) but the framework allows us to discriminate and identify the nature of the pressure that has been applied. Illegitimate and inappropriate pressure which has been identified as coercive or 'overbearing' has not been acceptable to the Courts. Psychological manipulation appears to be an ever present dimension which when it reaches an *Extreme* level assumes an 'overbearing' and unacceptable mantle of its own. In some cases though, *Extreme* tactics of a more 'sensitive' nature have proved acceptable to the Courts. In this respect the framework appears to have successfully captured the dynamics and forces at play within this series of complex social interactions.

12. 5. CASES 19 AND 20: THE HERON AND MILLER MURDER CASES

Given the duration of each of these interviews (7 hours and 48 minutes and 12 hours and 42 minutes respectively) it was possible to conduct a separate factor analysis in each case. The resultant factors share a number of similarities with the combined group factors, discussed above, but it is perhaps the difference between them that is most informative. There were four tactic factors in the Heron case (Browbeat, Manipulation, Persistent Pressure and Exaggerate Evidence) which between them accounted for almost 40 per cent of the variance. In the Miller case, there were five tactic factors (Mr. Nasty, Mr. Nice, Manipulation, Poor Delivery and Persistent Pressure) which accounted for nearly 47 per cent of the variance. What is most noticeable is that all these factors are intrinsically 'overbearing' in nature, there is an absence of any obvious 'sensitive' factors. The individual tactic 'appeal', for example, appears in the primary factor of both cases, but when it is accompanied by - raised voices, challenges, multiple assertions and pantomime sequences, as it is in the Heron case, and - continual disputes, threats, raised voices, challenges and the use of others, as it is in the Miller case, then any opportunity to attract a 'sensitive' label has been overshadowed by the dominance of the more aggressive tactics.

Perhaps the most obvious reason for the absence of any overtly 'sensitive' factors in these two murder cases lies in the fact that the legal judgements for both cases actually highlight the oppressive and persistent nature of the coercive tactics employed by the police. In this respect, it is very encouraging to note that the factors developed within this framework have remained faithful to these legal determinations and indeed the factors appear to accurately reflect

the particular nuances of each case. Unfortunately, given the extensive size of the Miller case it is not possible to discuss the case fully within the confines of this thesis. In truth, like all the cases in this unique sample, each one is worthy of a case study in its own right, but present restrictions provide the opportunity to emphasise only a limited number of issues. The Heron case has been presented in some detail for a number of reasons.

First, it is shorter and more manageable (in a presentation sense) than the Miller case. That is, it provides an opportunity to visualise over a sequence of only five pages an entire interview, lasting three days. Secondly, this case is a wonderful example of the capacity of the current framework to capture the dynamics of a tense and furious exchange. In other words, there is a clear symmetry between the tactics used and the responses obtained. Finally, this case has been selected as it was the only major case where the analysis continued after the confession was made. In such circumstances, it allows the reader to follow the nature and extent of tactics (and responses) post-confession, which may be the only objective and reliable test to assess a person's innocence or guilt (Ofshe and Leo, 1997). It is particularly encouraging to note that whilst the tactic factors in this case accounted for almost 40 per cent of the variance, the response factors (Resistance, Admission, Poor Memory, Seeks Information and Distress) accounted for just over 70 per cent. An impressive finding.

The lack of tactics evident in the first two Heron tapes reflects an opening sequence where the officers attempted to establish an account of events from the suspect. In T3 and T4 there is an increase in the primary factor Browbeat (challenges-lies, raised voice, pantomime, multiple assertions, imply evidence and appeal) and Exaggerate

Evidence (manipulate details, introduce evidence and pantomime). In contrast the response graph highlights the *Extreme* levels of the factor Poor Memory. This case was punctuated with references by the suspect to the fact that he suffered from blackouts and that this in turn affected his memory. In his judgement of 1st November 1993, His Honour, Justice Mitchell noted that:

“The police gave the blackout explanation short shrift from the start, insofar as he was advancing blackouts as an explanation for gaps in his memory. The risk they took in doing that, in the event, appears to have been justified.”
and,

“The police scepticism about the defendant's claimed lapse of memory was, in my judgement, progressively justified as the interviews progressed.”

A pre-trial psychological assessment disclosed that this suspect did in fact have a genuine memory retrieval dysfunction; one which could be overcome, according to the clinical psychologist, with the use of suitable or appropriate cues. It is not known however, whether Mr. Mitchell had this report at his disposal at the time of his judgement, although he did comment that:

“Not only does the medical evidence not support the claim, but finally the defendant told them (the police) that his amnesia for that night's events was confined to the one hour that mattered, namely 9.30 to 10.30.”

At this point in time, it is clearly important that the current framework has identified this very salient feature; the full extent of the relevance of this issue will become abundantly clear when post-confession responses are discussed shortly.

Whilst each case in this sample is deserving of a case study in its own right, it appears that this one case is such a particularly rich example and that at least two crucial issues emerge. First, the question of whether a genuine memory retrieval dysfunction would qualify a suspect for the additional protection of an AA and, secondly, this case provides an opportunity to test the assertion by Ofshe and Leo (1997) that an analysis of post-confession responses provides a reliable indication of guilt or innocence. A brief examination of these two areas is possible within the confines of this discussion.

Dealing with the question of the need for an AA (which appears not to have arisen in the original trial) in his judgement, Mr. Justice Mitchell evidently thought the officers were justified in dismissing Heron's blackout problem but the question is, if such a genuine problem did affect his memory (and therefore the reliability of his answers) would this not qualify him for the additional protection of an AA?

Issues surrounding this question have been debated in Chapters Three and Eight, and it is relevant that the Codes state:

“It is important to bear in mind that, although juveniles or people who are mentally disordered or mentally handicapped are often capable of providing reliable evidence, they may, without knowing or wishing to do so, be particularly prone in certain circumstances to provide information which is unreliable, misleading or self-incriminating. Special care should therefore always be exercised in questioning such a person, and the appropriate adult should be involved, if there is any doubt about a person's age, mental state or incapacity.” (ibid, p 56, present author's emphasis).

Is there any doubt about Heron's incapacity? Apart from the clinical psychologist's report, additional evidence comes from the interview itself. Heron has referred to his inability to remember on at least 21 occasions by the end of the fourth interview. More specifically he has also articulated his actual retrieval problem and the extent of his blackouts, as early as the second interview.

- Heron 'I'm not sure I may have done. You see I suffer from blackouts and that effects me memory.....'.
- Officer 'When was the last time you had a blackout?'
- Heron ' Last week'
- Officer 'When?'
- Heron 'Thursday or Friday'
- Officer 'Where did you have the blackout?'
- Heron 'In the house'
- Officer 'And what happens?'
- Heron 'Sometimes I like fall to the floor but sometimes I can just stand and I'm dizzy for a couple of seconds. I can see black like speckles in front of me eyes.'
- Officer 'So what happened on this occasion?'
- Heron 'Just like dizziness and speckles cos I was like reaching up to put something on top of the fridge in the kitchen.'
- Officer 'So you didn't have a blackout as such where you fell on the floor?'
- Heron 'No'
- Officer 'Do you see a doctor about them?'
- Heron 'I've seen a doctor about them, I've had like a brain scan.'
- Officer 'When was the last time you saw a doctor?'
- Heron 'Er about me blackouts?'
- Officer 'Yeah..... So what did they put the blackouts down to?'

Heron 'They don't, they don't know.'

Officer 'Are you on any sort of medication for them?'

Heron 'No, had blood tests like, brain scan, heart scan since, but nothing's come from them.'

Such a dialogue suggests that the officers appear keen to know as much as possible about this condition. In such circumstances, do they have the necessary suspicion required to invoke the AA guidelines? (ibid p 26, author's emphasis). Reminders of the retrieval problem continue in this the second interview.

Heron 'As I say I can't rightly remember, cos the blackouts affected me memory.....'

The reaction of the interviewing officers is important, after all, how many suspects say to detectives, I can't remember? In this case their reaction is very interesting.

Officer 'Now we're talking about a very very serious matter, you cannot get anything worse really, can you?'

Heron 'No'

Officer 'That's why it is important that you try to remember.'

Heron 'I try to remember everything, but like I said the blackouts effect me memory and I actually lose pieces of me memory. That's how bad they are.'

So having maximised the serious nature of the offence under investigation the officers go on to minimise the question of the blackouts, despite having elicited a great deal of pertinent information only minutes previously.

Officer 'Well as such you haven't had what you would class as a proper blackout, where you've fallen over for certainly how long?'

Heron 'At least two or three month.'

One of the main criticisms from Mr. Justice Mitchell, concerning the tactics employed, was the extensive reliance on the strength of witness evidence that the police implied they had. Subsequently, unsubstantiated suggestions that 'he had been seen' led His Honour to comment:

" The temptation for the suspect to trim his account to accommodate such evidence could be considerable.."

These assertions also had a direct bearing on how Heron began to accept the information from the officers, it was after all, offered as irrefutable evidence. For example;

Officer 'As I say we have evidence contrary to what you say that you were out that night.'

Heron 'I may have been, **like you said**, (author's emphasis) but with us having like a blackout.'

Officer 'Where? You say you may have been, well where may you have been?'

Heron 'I don't know. I can't remember.'

Officer 'But we have evidence that you were out that night?'

Heron 'But with us having the blackouts me memories all sort of scratchy.'

Officer 'It's not a case of that really is it? I mean you can remember?'

Heron 'I can remember certain things.'

At the beginning of Tape 4 the officers continue to maintain that he has been seen in the Boar's Head Public House;

Officer '.....you were seen in the Boar's Head. You went into the Boar's Head for a short period during those times.'

Heron 'I may have done.'

Officer 'Why? [not typed on original manuscript]

Heron 'I might have gone in for cigarettes, I don't know.'

Officer 'Yeah who would you get the cigarettes for?'

Heron 'I don't know, probably my sister or Kenny, or somebody.'

Officer 'Why has this just suddenly sprung to your mind now? '

Heron 'As **you** say (author's emphasis), I was in for a short period, the only reason for being in for a short period, would be to get cigarettes.'

Officer 'So can you remember going there that night to get cigarettes?'

Heron 'I can't really remember it. But if I **was seen** in there I must have.' (author's emphasis)

Officer 'Well start putting your mind in gear a little bit because we are talking about murder here.'

Heron 'It is over a week ago. I have had blackouts since.'

Officer 'Your blackouts have got nothing to do with it. You remember watching MASH and what that was about.'

Heron 'I can remember certain things, that's why.'

Progress is slow and somewhat ironically, an officer comments,

Officer 'I am not happy at all in the way things are going, you are having to be prompted, it's not coming from you.' (author's emphasis) and shortly afterwards;

Officer 'Have you just wiped it out of your memory.. ?'

Heron 'No I haven't. I wish I could take my memory and like put it in front of you and let you look at it.'

The present author would argue that leading up to the point of confession the officers have supplied important pieces of information to Heron, some of which he has adopted. The current framework has identified the extent to which Heron has pleaded his impairment (to an

Extreme level) although it has not been possible to reproduce the full extent of this interaction within the confines of this discussion. Importantly, the framework also identifies the continuing tactics (and accompanying pressure) employed by the officers in persuing their goal: eliciting a confession to murder. In T5, there is the *Extreme* use of Exaggerate Evidence (by the new 'senior' officers) and in T6, a very extensive and prolonged period of Manipulation that very nearly reaches *Extreme* proportions. Finally in T7, Manipulation and Browbeat conspire to produce first an admission and then a confession. The most striking corollary of these tactics can be seen in the *Extreme* levels of Distress experienced by the suspect in T6, leading up to the confession.

Moving on to discuss the second issue from this one case, if we examine the graphs, post-confession, there is evidence of *Marked* levels of Persistent Pressure from the officers and corresponding levels of Seeks Information from the suspect. If the confession has been obtained, why is it necessary to adopt this tactic (to such a degree)? and why does the suspect need to seek further information or to qualify his answers? It appears that Heron did not know the answers to a large number of questions that the officers continued to put to him regarding exactly what happened at the time of the murder. The points raised were important corroborative details which only the actual murderer would be aware of. From the transcript it would appear that Heron was prompted and led in connection with almost every conceivable corroborative point. These included the point of entry to the disused building, victim's clothing, weapon, wounds (number and type), the position of the body and route used inside the premises. It will not be possible to outline all of these points, but by concentrating on the discussions surrounding the weapons used and the type of wounds inflicted it should be possible to portray an

accurate synopsis of events. The impact of a close examination of these passages is immediate and profound. It renders any commentary quite superfluous (for economy, some questions and/or answers appear together and are denoted by spacing. The presentation, spelling, punctuation etc., is taken unaltered from the manuscript copy).

At the point of confession, Heron states,

'Picked up the nearest thing and hit her with it.'

Officer 'And what was that?'

Heron 'A brick.'

Officer 'Where did you hit her George?'

Heron 'On the head.'

Officer 'How many times can you remember?'

Heron 'No.'

Officer 'How many times do you think?'

Heron 'I lost count.'

After talking about where this took place the first of many prompts appears. Despite the use of prompts by the officers, Heron's responses can be interpreted as rather equivocal or ambiguous. One possible explanation would be that as he does not know the actual answer, he is 'sitting on the fence' and waiting to feed off further cues or prompts.

Officer 'That is not all you did George is it? Howay you have told us the truth we are just about there George we are nearly finished alright. Did the Brick knock her out George?'

Heron 'There was blood.'

Officer 'Did that kill her George with the Brick? George it didn't did it, George?'

2nd Officer 'There is more isn't there George?

1st Officer 'Howay you have told us there was blood all over the place what else did you do. George, we know what's happened, we know what's happened, so you know you are not holding anything back by not telling us, George what else did you do?'

1st Officer 'George howay son, just finish it off and tell us what else you did.'

1st Officer 'George.'

Heron 'Went to throttle her.'

Officer 'You went to throttle her, what with?'

Heron 'Me hands.'

Officer 'But you hit her with something else didn't you George?'

Heron 'Don't remember (actually typed as probably I can't remember)'

Officer 'George, think, I know its not very nice son, but just think what else did you hit her with. Eh George?'

Heron 'Fist.'

Officer 'What else? Howay George, you used something else didn't you? George, we know, howay, George what else did you do? Come on.'

Heron 'Piece of metal.'

This marked the end of T7, it was 11pm and a further 44 minute interview was started almost immediately.

Officer 'Right, when the tape finished George you said that you used a piece of metal as well, is that right?'

Heron 'Yes.'

Officer 'What did you do with it?'

Heron 'Hit her.'

Officer 'Hit her where?'

Unintelligible

Officer 'No you didn't George, tell us what you did with it..... But you did something else to her didn't you, you say with a piece of metal, what did you do?' Now you did something with that piece of metal didn't you the body has been examined George we know exactly what what happened, if you're telling the truth just tell us what then happened.'

Heron 'Stuck it between her legs'

Officer 'Stuck what between her legs?'

Heron 'The metal pipe'

Officer 'And what did it do?'

Heron 'Blood.'

Officer 'Blood where?'

Heron 'On the floor on the pipe.'

Officer 'Where did the blood come from?'

Heron 'Nikki.'

Officer 'But where from? From her head?'

Heron 'From between her legs.'

Officer 'From between her legs? Howay George, look us in the eyes and tell me the truth..... Well I'm saying to you that you did something else to her as well, didn't you eh?..... what did you do?'

Heron 'Assaulted her.'

Officer 'What do you mean you assaulted her?'

Heron 'Sexually.'

Officer 'What did you do?'

Heron 'Tried to have sex with her.'

Officer 'How did you try to have sex with her? 'How did you try to have sex with her?'

Heron 'Same way everybody has sex.'

Officer '.... you didn't try to have sex with her, did you George?'

Heron 'No.'

The discussion changes to blood stained clothing, but returns to the type of weapon used.

Officer 'What did you use? Eh? Come on.'

Heron 'Metal.'

Officer 'A metal what?'

Heron 'Bar.'

Officer 'Bar!'

Heron 'Well, a piece of metal.'

Officer 'And what did you do with that piece of metal was it a knife, George?'

Heron 'It was sharp.'

Officer 'It was sharp, where did you get it from George, where did you get it from, did you have it with you?'

Heron 'No.'

Officer 'You must have had it with you.'

Heron 'I don't remember having it with me.'

Officer ' What did you do with (it) are you going to tell us?'

Heron 'Can't.'

Officer 'What sort of metal?'

Heron 'Base metal.'

At the conclusion of the first day therefore, the weapons suggested by Heron have included brick, hands, metal, metal pipe, sharp metal and

base metal. Eventually he was asked, was it a knife? There are numerous other prompts. On day two, Heron is taken back over events and by T10 the questioning has focused on the actual assault.

Officer	'Hitting her, what with?'
Heron	'Something in me hand.'
Officer	'Now you've hit her with the brick, now she had another injury or injuries on her body. George.'
Heron	'Yes.'
Officer	'How did you do them?'
Heron	'Wounds.'
Officer	'Wounds, how did you cause the wounds?'
Heron	'Metal wounds.'
Officer	' what sort of metal are we talking about?'
Heron	'Sharp.'
Officer	'Sharp metal.'
Heron	'Metal.'
Officer	'What are we talking about though, what was it, an object?'
Heron	'Small, sharp, metal.'
Officer	'Where did you get it from. Go on George. George do you want to tell us.'
Heron	'I am trying.'

The legal adviser (LA) present now makes her first intervention.

LA	'You know when we were talking before George when the police officers weren't in the room, you said you wanted to tell them, these were the two police officers that you wanted to speak to. Once you have said it you have said it.'
----	---

Officer 'Can I ask you again George what it was. What was it George. What was this sharp metal object that you are talking about.'

Heron 'Knife.'

Officer ' Now what did you do to Nikki with the knife. You've said wounds, you are saying you caused wounds to her with the knife?'

Heron 'Yes.'

Officer 'Whereabouts. Just where George.'

Heron 'Just remember wounds.'

Officer 'Where abouts George, come on? You say you are going to tell us the truth George, come on. Come on George we are nearly there..... I know it is extremely painful but you said you would tell the truth. Where abouts come on, it's coming. Where abouts George.... George you say you have used a knife to cause Nikki wounds, haven't you? Yeah.'

Heron 'Yeah.'

Officer 'So you have told us what you have done with the knife, haven't you, Yes. So we are just asking you whereabouts. George.'

Heron 'Torso.'

Officer 'The torso, is that the top of the torso, or the bottom of the torso, or the middle Show me.... about the middle, yeah, about the middle.'

LA 'I would say that is the middle.'

Officer '..... Do you know how many blows you would have **rained** on her with the knife? George? You are shaking your head, is that no.' (author's emphasis).

Heron 'No.'

Officer 'Was there a lot of blows. George.'

Heron 'Probably yes.'

The questioning continued in this manner with numerous prompts and leading questions. At the end of the interviewing on the second day Heron is asked,

 'Right have you got anything to say about the way the interview has been conducted. George.'

Heron 'It has been done fairly.'

Officer 'Are you happy.'

Heron 'Yes.'

LA 'I am very pleased with the way it has been dealt with.'

A further interview, which attempted to discover why Heron had committed the murder (together with other important corroborative details) was conducted in the same leading fashion the following day. The temptation to continue to examine this post confession dialogue is considerable, especially when you consider that the author has only provided a tantalisingly small proportion of what is an extensive and intriguing record of events. Regrettably, this is not possible within the confines of this thesis, but it is reassuring to note that the developing framework has identified the nature of this interaction. It is also not possible to comment on the outcome of the case. It would be unwise to debate the hypothesis put forward by Ofshe and Leo (1997) without a thorough examination of all available evidence. The cursory details provided here represent merely a 'snapshot' of the full proceedings, but from this brief review there would appear to be cause for some concern over the extent and reliability of Heron's intimate knowledge of the murder scene.



The comments of the legal adviser in this case however, do warrant further discussion. Thus far, the role of the third party has tended to be marginalised, but on a number of occasions an intervention by the AA or legal adviser has taken place immediately before a confession or admission was made. Whilst this was not the case in Heron, it is intriguing to note that the legal adviser was content to remain silent throughout the intense and manipulative periods of the interview, but found herself drawn into the dialogue post-confession.

12. 6. THE INFLUENCE OF THE THIRD PARTY

The title of this sub-section may be slightly misleading. For example, without being party to any privileged conversation it is not possible to specify exactly what the influence of a legal adviser or AA actually was. It is possible, however, to report on what took place within the confines of the interview and to comment on this interaction, the interpretation of which can only be made with the foregoing qualification in mind. Some examples may help to illuminate this issue.

As noted earlier, a legal adviser was present in 12 out of the 20 cases in this sample and a negative coding was awarded to two thirds of this group of advisers. In four cases where a legal adviser was present, however, it was noted that an intervention by the adviser preceded a confession or an admission. This often took the form of asking for an opportunity of a private consultation with the suspect. For example, in Case 1 the suspect had been arrested for burglary with intent to rape. From the outset the central issue was the suspect's alleged intention to commit rape. An allegation he steadfastly denied. The status of the legal adviser is unknown - although the typed transcript implies he is a solicitor. There were two interviews lasting almost 90 minutes in total.

Very early on in T1 the suspect explains that he is on Temazepan, that he has difficulty sleeping and that he believes in evil spirits.

Suspect 'I hear a voices in my head.....and I hear evil spirits, there's evil spirits. Have you heard of evil spirits?.....They're called jinx, we call them jinx.....and they talk to me, I've seen them. I've seen one, an evil spirit.'

There is no AA present and no action is taken by the police or legal adviser in this regard, or to consider psychiatric assessment. The participants seem to agree that it was probably the evil spirits that were keeping the suspect awake at night and the conversation moved rapidly on to the vexed question of intent. The suspect continued to deny that he intended to rape the woman he disturbed in the house. This refusal lasted, despite persistent and quite considerable manipulative efforts on the part of the officers for 67 minutes, and well into the second tape. The suspect then asked for a consultation with his legal adviser.

On his return (after 12 minutes) the suspect suddenly announced,
 'Yeah I did go into the house with intention of rape.'

To which the surprised police officer replied,

 'Right, OK. So - that's a little bit blunt.....'

This example exemplifies the difficulty in coding and analysing behaviour that represents a dramatic change, often brought about by a sudden intervention over which there is little control and crucially little information. In this case, it would appear that not only was the decision to confess discussed, but also the question of intent.

Moving on to the activities of the AA in this small sample, the present author was struck by a marked difference between interventions made by an AA and those made by a legal adviser. Previous research and legal judgements confirm the 'passive' nature of both parties (Baldwin, 1992b, 1993; Evans, 1993a; Pearse and Gudjonsson, 1996b, c, d). The difference emerges when an intervention is made. Legal advisers (throughout this entire thesis) tended to make brief, sometimes cursory interventions, often to secure a private consultation. Good legal advisers not only made brief utterances, but they also challenged an improper question or the interpretation, placed by the officer, on a piece of evidence. On the other hand, AAs (when they intervened) tended to be more verbose and less circumspect in their approach.

In this sample an AA was present in six (30%) of the 20 cases. Five of these received a negative coding. Two, because they remained silent when the situation demanded otherwise, and three because they failed to remain independent and actually took part, at some stage, in the interviewing process. In all three cases, an intervention by the AA preceded a confession or admission by the suspect. This alarming finding is clearly worthy of further debate. In two of these cases (Case Nos. 8 and 11) a brief discussion concerning the nature of these interventions has already been made. The third case in this group concerns the allegation of attempting to pervert the course of justice, where a female suspect falsely accused a man of raping her. The AA in this case was a voluntary worker from a national support scheme. This was a rather forceful and manipulative interview and for long periods the suspect continued to maintain that although she had wrongly accused a specific person of raping her, she had still been raped. This was a major obstacle for the interviewing officers. In the

fourth interview, a rather exasperated detective begins to wrap up the proceedings. Having asked his colleague whether he has any further questions, he turns to the AA,

Officer '..... have you got any further questions at all. Do you want a short conversation with [the suspect] or whatever?'

AA 'No I think it could go on forever.'

Officer 'It could, I think it could go on forever.'

AA 'All I can say is what you did say to me yesterday, was it's not the bathing to get clean it's the yuck that you're actually feeling about yourself. When you've been told, when you didn't remember all that had what happened, but now you've been told and you feel yuck about yourself because you know because of the drink that a lot was drunk fools, that's all she said to me yesterday.'

This insight into an earlier, possibly confidential conversation, rejuvenates the officer(s) and they re-launch their questioning based on earlier themes of embarrassment and armed with this new information from the AA. A few questions later the AA again intervenes (although not specifically invited)

AA 'It's only on your admission he's not going to know that you didn't want sex because you've not told him and you've had sex with him previously, you've been kissing and cuddling, performing oral sex. He's not going to know that that's not what you want.'

Immediately after this intervention an admission is made,

Suspect 'Okay so no I wasn't raped.'

Given the limited amount of research that has been conducted into what an AA actually does in an interview it is not known how representative these few cases might be of the quality and performance of the AA in general. It is a truly disturbing finding, however, to discover that independent agents introduced into the closed world of police interviewing, for the express purpose of providing advice and guidance to vulnerable suspects in very serious cases, should actually intervene in a manner that appears to precipitate an admission or confession.

Focusing on what took place immediately before an admission or confession was made, has highlighted one of the limitations of this thesis. The current framework was developed to measure the extent of pressure applied to a suspect during the course of the interview, but it can not pick up or identify examples of a single intervention, such as those concerning the AA or legal adviser. As was noted earlier, where any third party participated in the interviewing process their interventions were coded as tactics and their contribution subsumed within the entire process. It may be the case that consideration could be given to allocating a separate variable for such activity (although if it is infrequently used it will not be subject to any subsequent statistical analysis, and therefore may be lost).

It was interesting to note that there were other behavioural characteristics present immediately before or around the time of the confession. For example, in 10 of the 20 cases there was evidence that the suspect was crying, or distressed in some respect. Additionally, it was noted that periods of silence increased at around the time of a confession (10 cases) and in two cases there were angry exchanges.

These findings suggest that it may be profitable to design a separate analysis or framework specifically for the period immediately before a confession and its aftermath. In general terms, this thesis has adopted more of a 'broad brush' approach designed to cater for the interview(s) in total rather than focusing on a selective part of the process. There were a number of other limitations with this thesis.

12. 7. LIMITATIONS OF THIS RESEARCH

Thus far the author has discussed the findings that have emerged as a result of employing a unique framework, developed specifically, to try and measure the nature and extent of the influence of police interviewing tactics. It has been argued that sufficient evidence exists to support the main hypothesis, but one question that needs to be addressed, concerns the validity of the actual design methodology. To what extent has this framework succeeded in measuring what it purports to measure? And to what extent can this sample be seen as representative of other criminal cases?

One factor that it was not possible to control for, relates to the 'ground truth' of the allegation in each case. Clearly, there are likely to be some suspects arrested by the police who will be innocent, and there will also be many who are guilty, but the actual impact of this variable on the decision-making process of the suspect is not known. The law in England and Wales, appreciating the inherent difficulty in attempting to achieve this elusive goal, has for many centuries sought to determine the more manageable concept of proving a case 'beyond reasonable doubt'. This is not an option that is open to empirical research and such a limitation needs to be articulated.

Further weaknesses relate to the absence of a suitable control group and the small and selective nature of the assembled sample (some mitigation on this point has already been outlined, centred on the original nature of the project and the scarcity of appropriate controls, please see pages 185-187). Despite such mitigation, it is fully appreciated that such limitations greatly reduce the opportunity to allow inferences to be drawn to a wider population from the findings of this study. To some extent, drawing inferences from these findings is really rather premature. This design is very much in its infancy. The coding remains rather subjective and almost exclusively, the domain of the present author. This framework represents the first tentative steps on what is likely to be a rather long road to discover - why some people confess.

The sample assembled for this thesis will need to be greatly extended. Larger numbers of suitable cases will be required to be able to generalise to wider populations. Such a database will also need to contain sufficient quantities of cases where (i) the suspect does not confess and (ii) where the suspect confesses but does not later retract. With such information it will be possible to examine important individual differences and to design experimental scenarios with sufficient scientific rigour to manipulate crucial independent variables such as the tactic factors employed; Manipulation, Intimidation, Browbeat and so forth. When considered alongside the amount of the research that still needs to be undertaken, this thesis is perhaps best characterised as an exploratory study. The framework that has been created, however, may prove to be a suitable vehicle for future research and deserves a closer inspection.

One weakness concerning the factor analytical approach adopted in this thesis was that 18 of the cases were combined to form one group analysis. This meant that potentially important variables, such as offence category, sex, duration and the presence of third parties were amalgamated and their individual effect could not be controlled for. Put another way, the interviewing tactics of 37 officers (male and female) were combined to identify what type of tactics clustered together and what salient features were relevant at particular stages within the life of an individual case, according to the results of this group analysis. To some extent, this could be justified as the overriding goal of the statistical process was to identify the nature of the tactics employed and the results have been rather encouraging. As three separate groups of factor analyses were conducted, this actually provides an opportunity (albeit limited) to conduct a simple comparison between the three groups.

As would be predicted, the combined group analysis failed to account for as much variance as the individual Heron or Miller cases, but what is particularly encouraging is the extent to which the final factors reflected either the judgements in each case or were able to capture the nature of tactics actually employed. In the Miller case, for example, the two primary factors clearly mirror the 'sweet and sour' tactics highlighted by the Court of Appeal and the presence of the third factor (Manipulation) was also identified in that judgement. In the Heron case, the Browbeating that Mr. Justice Mitchell was so critical of, clearly emerged and the associated Manipulation was also identified. Encouragingly, the response factors in this case actually accounted for over 70 per cent of the variance. In the combined group of cases, the results discriminated between the 'overbearing' tactics and the more 'sensitive' variety, and one tentative finding was that the nature of the

offence under investigation appeared to dictate, to some extent, the type of tactics adopted. As a group therefore, these three examples not only share a number of similarities but also appear to reflect the eventual legal determinations.

These findings do however, need to be placed in some perspective. To compare the findings from this small sample with judgements from the Courts is not straightforward. For example, in the Miller case the tactics used were actually allowed in evidence at two earlier Crown Court hearings, where a conviction was imposed. It was only at the Court of Appeal that the tactics were declared oppressive. Such a qualification needs to be emphasised.

The pioneering work of Irving (1980) and Softley (1980) lamented the lack of serious criminal cases in their respective samples. Despite two follow up studies by Irving at the same police station in Brighton (Irving and McKenzie, 1989) the absence of sufficient numbers of 'serious arrestable offences' persisted. This thesis was also rather impoverished in this regard, but despite the limitations of sample size and the subjective nature of the coding process the present author would argue that it has extended the early research in a number of important areas and created a unique framework for future studies.

12. 8. CONCLUSION

For the first time, an attempt has been made to identify, analyse, measure and display the level of pressure applied by the police during a police-suspect interview. The framework that has been developed has not only discriminated between 'overbearing' and the use of more 'sensitive' tactics but it has also succeeded in quantifying the extent of their use. The *Extreme* use of an 'overbearing' tactic as measured in this

sample has subsequently been found to be oppressive or inadmissible by a court of law. On the other hand, cases which have reached at least the *Marked* level (whether 'overbearing' or 'sensitive') tend to be admitted as evidence. The findings are likely to have important implications for future police interview training and it is hoped that the opportunity will exist to apply this framework to a much larger group of serious criminal cases in order that the original design can be refined and applied in a wider judicial setting. }

Chapter Thirteen will draw together some of the main findings of this thesis.

CHAPTER THIRTEEN

CONCLUDING DISCUSSION

Professor Baldwin (1994) cogently argues that despite the concerns *cut* raised over police interviewing procedures, the Runciman Royal Commission (1993) adopted a consolidatory rather than innovatory approach to this thorny issue; "... one was struck by the bland, unexceptional and unimaginative character of the Commission's recommendations on police interviewing procedures" was how he summarised the "superficial" nature of their discussions (ibid, p 68). According to Baldwin (1994), the main problem that needed to be addressed "...was to determine what kind of pressures police interviewers can legitimately exert upon suspects detained in police custody." (ibid, p71). By introducing a framework that identifies and measures the dynamics of the police-suspect interview, this thesis has gone some way to improving our understanding of this complex social and legal process. The purpose of this final chapter is to draw together the findings of the field study from Part Two and the results and implications of the new interviewing framework, developed in Part Three. What has been learnt? What further research is necessary? And what are the implications for the police service?

The characteristics, features and outcomes of the cases in Part Two were manifestly different than those present in the smaller sample, assembled for Part Three. There was, for example, no evidence to support the main hypothesis in Part Two that people make confessions because of the pressure or psychological manipulation applied by the police. Despite this lack of social interaction and absence of the overt use of coercive police tactics, a number of important findings did

emerge. One striking finding was the low level of intellectual ability of many of the detainees. The average prorated FSIQ for the sample in Part Two for example, was only 82. Sixty-eight (42%, N=156) had a score between 70 and 79 ('borderline' learning disability). For the subjects in Part Three, the mean I. Q. score was only 79. The police are likely, therefore, to be interviewing many suspects of low intelligence. This is a particularly important finding as it has immediate implications for the bulk of interviewing carried out across the country on a daily basis. It is noticeable that this finding has, thus far, failed to penetrate the burgeoning police literature on interviewing.

Currently, officers are reminded of the advantages of adopting a 'Kipling' style approach to questioning. Kipling's 'Elephant Child' is quoted, as it contains the following lines:

I keep six honest serving men,
They taught me all I know,
their names are what and why and when,
And how and where and who. (taken from CPTU, 1992b, p 55).

If this advice is actively pursued, then priority must be given to appreciating the possible intellectual impairment and other psychological vulnerabilities of the 'who' (see also Pearse, 1991).

Remaining with this issue, although the detainees that were studied in this thesis could not be said to be representative of all detainees across the country, it is not uncommon to find that forensic or prison populations tend to have a limited (below average) intellectual capacity (Eysenck and Gudjonsson, 1989). This has implications for the number of AAs that ought to be called to the police station. In this study, this particular safeguard did not always appear to be implemented and, when it was activated, the individuals concerned

often failed to live up to the high expectations that are implicit in the legislation. AAs were often not informed of their role and responsibilities under PACE, during the proceedings they failed to remain independent and, crucially, several of them made telling and somewhat questionable interventions that immediately preceded a confession. Such findings have led directly to an innovative piece of research between the Metropolitan Police Service and the Institute of Psychiatry. For the first time, an attempt is being made to establish exactly how police officers acquire the services of an AA throughout the London area. This project is being steered by the present author and his supervisor. It represents one of a number of tangible examples of the applied benefits to emerge from the research conducted for this thesis.

Although the analysis and coding of the interview tapes in Part Two has already been criticised as rather perfunctory and lacking in detail, a number of important issues did arise. The absence of suitable and adequate challenges from the interviewing officers has already been highlighted (see Chapter Six), and the need to introduce appropriate challenges now forms an integral part of the national police training manual (National Crime Faculty, 1996). Another issue raised was the limited amount of planning and preparation that appeared to have been invested in some cases. As in previous research, delays occurred whilst papers or references were located, but it also appeared that the length of the interview was actually governed by the amount of time available on the tape. Again, this finding is supported by earlier studies (Williamson, 1990) and those tasked with the implementation of police training might wish to address this trend.

The dominant role played by just one interviewing officer is another aspect that merits attention. On occasions, the tapes (in Part Two) provided evidence of a 'silent' interviewing officer, who was only audible when asked to provide introductory details at the beginning of each tape. This begs the question, if one officer is capable of conducting the interview, is a silent partner necessary? There are considerable resource implications for police forces who adopt a single officer policy. In many other countries only one officer is employed. In America, for example, Leo (1996) found that nearly 70 per cent of interviews were conducted by a single officer and, from personal experience, this is also the policy in other European countries. On the surface, it makes a great deal of intuitive sense to employ one officer in straightforward or run of the mill cases. What is appealing about this issue, is that it also appears to be amenable to a natural field study from which the relevant authorities could make a balanced and informed policy decision.

Additional research is also required into the effect of drug use prior to a police-suspect interview and into the effects on a detainee who is undergoing drug withdrawal symptoms during an interview. In this study a suspect was at least three times more likely to make a confession if he had reported having consumed an illicit (non-prescribed) drug within the previous 24 hour period, than a suspect who said he had not taken such a substance. At the moment, in legal terms, a confession that is obtained whilst an individual is withdrawing from drugs is not necessarily invalid, but in psychological terms, the extent to which the influence of drugs may have an effect on the ability of the suspect to make a rational and informed decision is unclear. These results suggest that this situation may be more widespread than was previously known. Clearly, another important area for further study.

This research has replicated the findings of previous studies and, to a limited extent, confirmed the presence of a number of 'myths' (Baldwin, 1993, 1994). The first concerns the suggestion (often generated by the media) that police-suspect interviews are tense, hard fought gladiatorial conflicts, where the Police eventually triumph over their adversaries, often because of their superior interviewing capability. In Part two (concerning general or run of the mill cases) this clearly did not happen. The stark reality of the 'banal' nature of the majority of everyday police interviewing is an important and humbling message that needs to be promulgated throughout the police training network. Equally unpalatable, but perhaps more challenging, is the second myth: that all legal advisers are dedicated to frustrating the aims of interviewing police officers by advising their clients to deny everything or to exercise their right to silence.

Although significant relationships were found between the presence of a legal adviser and (i) a suspect's decision to exercise his right of silence and (ii) a suspect's decision not to confess, it has been argued that these findings cannot be taken in isolation, they need to be interpreted within the overall context of this, and other studies. The passive and non-interventionist nature of the legal adviser was again evident in this study. In such circumstances, can the 'passive adviser' also be responsible for aggressively promoting a blanket 'no comment' or 'not guilty' policy? One important factor that should not be overlooked is the influence and sovereignty of the individual suspect. One of the limitations of this study was that it was not possible to ask the suspect (or the legal adviser) questions in relation to their decision making process, to help illuminate the outcome of the interview. It is only when the perceptions and motivations of these key

players are better known that our understanding of this complex issue will improve. It is quite possible that the suspect plays a leading role in formulating his own strategy and calls upon the services of a legal adviser not only for advice in relation to the wisdom of that strategy but also a supporting physical and psychological presence (Pearse and Gudjonsson, 1997; Brown, 1997). In such circumstances, the role of the legal adviser in the interview may be relegated to that of an observer.

One of the negative consequences of this second 'myth' is that it fuels the history of unhappy and hostile relationships between the Police and lawyers. Williamson (1993) rightly points to the unique position held by the police-suspect interview within the criminal justice process. It stands alone, as the only inquisitorial element in an adversarial system. The traditional and well established impasse between these two 'adversarial forces', however, dictates that the communication channel between them is often restricted. For example, officers may be loathe to disclose their evidence prior to the interview, which immediately impairs the legal adviser in terms of being able to properly advise his or her client. This is despite the most recent national police training manual quoting Recommendation 63 of the Runciman Commission, which stated:

"Code C should be amended so as to encourage the Police to inform the suspect's solicitor of at least the general nature of a case and the prima facie evidence against the suspect." (NCF, 1996, p 76)

It occurs to the present author that if this advice was actively pursued, in all but exceptional cases, the advantages of the inquisitorial component would become apparent. Once again this state of affairs appears amenable to further research. For example, whilst the majority

of police forces continue to censor the extent of the material disclosed, one police force area has openly adopted the policy recommended above. To date there has been no evaluation of this activity.

Perhaps the most encouraging and enduring message to emerge from the field study was the positive and helpful nature of all participating parties. The 'open door' policy extended by the Metropolitan Police Service was also embraced by the personnel who manned the daily shifts, and to whom the researchers represented another responsibility. This particular study was the first to intervene in the administration of the criminal justice process in this manner and it was noticeable that no obstacles were placed in the researchers' path. A particular mention must be made of the willingness of the detainees to enter into detailed and often frank accounts of their personal and legal history. Their quite considerable contribution to this project was indeed noteworthy and it is the level of this overall enthusiasm that suggests that further prospective research into the decision making process of adult detainees within the criminal justice system remains a distinct possibility.

It has already been noted that there was no evidence from Part Two of this thesis to support the main hypothesis. This is because there was an absence of coercive or manipulative tactics, confessions were very often made early in the interview and essentially, there was little or no evidence of any pressure being exerted by the interviewing officers. Nor was there was any evidence to support the second hypothesis that psychologically vulnerable suspects would be more likely to confess. This is likely to be a reflection of the nature of the cases under investigation and the fact that psychological vulnerabilities, such as heightened suggestibility or limited intellectual capacity, will only be

exposed and become relevant when pressure is brought to bear on the individual. By comparison, in Part Three of this thesis, there was a sea-change in the volume, type and intensity of interviewing pressure exerted. The difference was immediate and palpable. This examination of very serious criminal cases, revealed evidence of the widespread use of coercive and manipulative tactics by the interviewing officers (and on occasions, other parties). Unfortunately, owing to the absence of a control group, it was not possible to test the second hypothesis at this stage of this thesis.

Before discussing the constituent features of the tactics employed, there is one alarming (and persistent) finding to emerge from within the design of this project. In all 20 cases where the typed transcript was compared with the audio-tape, clear discrepancies emerged. These ranged from the innocuous to rather damning omissions, amendments or additions. It is accepted that the criminal justice system in England and Wales has an established culture embedded in the written word, but it appears that an over reliance on this medium may have potentially disastrous implications. With the exception of the Miller case (1988) all the cases studied span a recent five year period (1991-1996), and if a more recent example is required, the 'Football Bribery' case involving the goalkeeper Bruce Grobbelaar and other professional footballers, is a classic and highly relevant, example. The Daily Telegraph (9.8.1997) reported that an alert member of the jury "... spotted a flaw in the transcript of a video-tape which the prosecution had relied on heavily" (Fenton and Fleet, 1997). The corrected version completely changed the emphasis of a conversation that the prosecution sought to attribute to Mr. Grobbelaar. In fact it emerged that he had not even uttered the incriminating words attributed to him on the official transcript. The opportunity for discrepancies (especially in

lengthy cases) is considerable and it is of some concern that this anomaly does not appear to have been recognised and addressed. Such irregularities are more likely to be identified where a comparison is made of both media. Currently, this would not appear to be a standard feature of pre-trial preparation.

Turning to the tactic factors that emerged, it is rather intriguing to examine the resultant amalgam; especially as certain individual tactics have been combined which do not immediately appear to be natural bed-fellows. Some components would not have been united had the author resorted to a purely subjective analysis. The first factors of each analysis serve as a case in point. In the combined group, for example, the Intimidation factor actually contains eight variables ranging from clear 'maximisation' tactics to the 'exploitation of others' and the 'use of silence'. Case 13 (previously discussed at pages 257-259) illustrates this point rather well. The officers in this case literally bombarded the suspect with a considerable range of individual tactics that included, 'emphasising their own experience', 'manipulating' evidential details and the suspect's self esteem, as well as numerous 'multiple assertions'. Such diverse combinations would not normally lend themselves to a straightforward subjective assessment.

In the Miller case, there appears to be a rather more ominous, threatening theme to the primary construct. The tactics tend to be delivered in a 'raised voice' and a heated manner, with 'threats', 'maximisation of anxiety' and 'continual disputes' ever present. Interestingly, the tactic 'appeal' loads highly on this primary factor. This is clearly an overbearing factor and it is reassuring to note that the label, Mr. Nasty, mirrors the judgement of the Lord Chief Justice. Indeed the primary factors from the two murder cases share a number

of features, in particular 'challenges regarding lies and statements as not believable', the use of the 'appeal' tactic and 'raised voices'. Despite this apparent similarity, the tenor of the Heron case never reaches the intensity and pitch that was clearly evident in Miller. This is reflected, to some extent, by the inclusion of the tactics 'pantomime' and 'imply evidence' in Heron, which served to reinforce the relentless and continual haranguing of the suspect's version of events which, although prolonged, did not extend to the extremes displayed in the Miller case. Such a distinction is also reflected in the title of the Heron combination of tactics - Browbeating.

Robust Challenge, the second factor in the combined group, is a very compact, almost pure construct in terms of coercive tactics. Containing 'continual disputes', 'challenge lies' and 'challenge inconsistencies' as well as 'interruptions', this is readily identifiable as the Robust Challenge factor. A good example of the use of this tactic can be found with Case 9 (previously discussed at page 55) where there were some 52 'continual dispute' tactics in a mere 22 minutes. Ever present, however, in all three tactic analyses was the factor - Manipulation. It would appear that the use of overbearing tactics, whether Intimidation, Browbeat or Mr. Nasty, on their own, are insufficient to achieve the confession required. All three Manipulation factors contain classic examples of 'face-saving' excuses: the 'minimisation of responsibility or seriousness', the 'manipulation of details' or 'self-esteem' and the introduction of 'themes or scenarios' which are often subsequently adopted by the suspect. As in the Miller case, and noted by the Lord Chief Justice, despite the quite considerable use of conventional pressure from the officers, it was the manipulation that secured the "chink", that eventually opened up the way for a confession. The use and deployment of numerous

manipulative tactics in this restricted sample was considerable and the framework has clearly exposed it.

In rather broad terms (as discussed in Part One) there is a growing body of evidence that suggests that guilty suspects have an internal need to make a confession, influenced by their subjective perception of the situation, i.e., what they think is likely to happen, rather than any objective evaluation. Such perceptions are in turn influenced by a number of explanatory variables, of which weight of evidence appears to play a dominant role. An examination of the tactic factors in this thesis, however, indicates that the introduction of evidence fails to appear in any of the primary or secondary factors. In the combined group it is only present in Soft Challenge, which is the sixth and last factor. In such circumstances it would appear that the preferred strategy employed by the police (in this small sample) does not reflect an examination of the available evidence, but rather that the officers are content to attack the character and self-esteem of the suspect, and to ignore his replies.

The terminology (*Extreme, Marked, Average* etc.,) shares a limited relationship with the principle of normal distribution. Thus, tactics measured within plus or minus one point on the Y-axis have been identified as *Average*. If the sample was representative of police interviewing in general and was also normally distributed, this would mean that approximately 68 per cent of all the values would lie between plus and minus one (95 per cent between plus or minus two, 99 per cent plus or minus three. Fletcher, Fletcher and Wagner, 1996). In such circumstances the recognition of *Extreme* levels (values that reach five or more) would be very rare. Five is a very conservative demarcation. There are a number of important points to be made

concerning the labels chosen to standardise the measurement of the level of pressure identified in each case.

First of all, these labels are based on the time over which the interview is conducted (X-axis). It could be said that the longer the interview the greater the opportunity for the use of the higher levels. An alternative perspective would be to suggest that *Extreme* levels occurring over a short space of time are likely to be even more potent than those occurring over a more extended period. Secondly, although this sample is not representative of police interviewing in general, one question that needs to be considered is, to what extent is this sample representative of very serious criminal cases?

What does the future hold? The development of this interviewing analysis framework raises a number of exciting possibilities.

Developments in computer software are fast reducing the need for the laborious and intensely time consuming process of decoding social interaction. If such a task can be completed satisfactorily with the aid of a computer, the framework may become an accessible and valuable tool for many parties within the criminal justice system, as well as for future social and applied psychological research. In the first instance however, what is required is a substantial database of suitable cases which will enable the current fledgling framework to be refined and enlarged. A control group (or number of groups) needs to be established to allow for a suitable comparison to be made and to allow inferences to be drawn. This framework is very much in its infancy, but it is hoped that it will prove a useful vehicle to help researchers understand the legal and social complexities of the influential and highly enigmatic police-suspect interview.

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**POLICE INTERVIEWING: AN EXAMINATION OF SOME
OF THE PSYCHOLOGICAL, INTERROGATIVE AND
BACKGROUND FACTORS THAT ARE ASSOCIATED
WITH A SUSPECT'S CONFESSION**

APPENDIX ONE

JOHN J PEARSE

**SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENTS FOR THE DEGREE OF DOCTOR OF
PHILOSOPHY.**

**INSTITUTE OF PSYCHIATRY
KING'S COLLEGE, LONDON
UNIVERSITY OF LONDON
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Thus far there have been nine papers published, or accepted for publication, in peer-refereed journals arising from the field work in Part Two of this Thesis. With the exception of the first paper, the present author is either the sole or lead author in each case. Further papers will be submitted for consideration for publication from Part Three.

1.

The first paper was published by the Royal Commission on Criminal Justice, Research Study No. 12 (Gudjonsson, Clare, Rutter and Pearse, 1993). This reported:

- The low IQ scores of many of the suspects.
- A third could be classified as intellectually disadvantaged.
- About 20 per cent reported increased state anxiety.
- Many suspects were not found to be unduly suggestible.
- About 7 per cent thought to be suffering from a major mental illness.
- About two thirds of the suspects had previous convictions.
- Most understood their basic legal rights, such as the right to legal advice and the right to silence.

2.

The second paper examined the general dynamics and structure of police interviews, the role of the police interviewers, and in particular the nature and type of tactics adopted by them.

Pearse, J. and Gudjonsson, G. H. (1996a) Police interviewing techniques at two south London police stations. Psychology, Crime, and Law. **3**, 63-74.

- The majority of the interviews were short, non-confrontational exchanges, often conducted with polite and compliant suspects.
- A significant difference in terms of 'co-operation' was found between the two stations (e.g., where suspects were 'generally compliant', $X^2 = 5.9$, $df = 1$, $p = < 0.05$).
- Fewer coercive or manipulative techniques employed compared with earlier studies.
- Confessions or admissions have remained relatively constant over the past decade.

3.

The following four papers review aspects of the role of an independent third person or 'Appropriate Adult' (AA), who may be called in to a police station to ensure that vulnerable suspects (juveniles or the mentally disordered) understand what is going on and that their needs are met. It is the responsibility of the police to summon the AA. Very few AAs were called, in Part Two of this study and some of the reasons for this discrepancy, as well as the widespread underuse of this safeguard generally, were investigated.

Pearse, J. (1995) Police Interviewing: The Identification of Vulnerabilities. The Journal of Community and Applied Social Psychology **5**, 147-59.

From a police perspective problems were evident in respect of:

- Ambiguous guidelines and poor legal definitions.
- Arbitrary legal interpretations by the courts.
- Poor initial identification by the police.
- Attitude and behaviour of police officers.
- The elusive nature of the handicap itself.

4.

In addition, the influence of the AA within the confines of the police interview was also examined.

Pearse, J. and Gudjonsson, G. H. (1996b) Understanding the problems of the Appropriate Adult. Expert Evidence, **4(3)** 101-104.

This identified problems in relation to:

- Availability and suitability of AAs.
- No national standards for training.
- No funding, and
- No recognition of the importance of this role.

5.

Despite the onerous responsibilities that fall to an AA under current legislation, the actual performance and behaviour in interview in Part Two of this study warranted a detailed examination of their actual role. This had not been undertaken in this fashion before.

Pearse, J. and Gudjonsson, G. H. (1996c) How Appropriate are Appropriate Adults? Journal of Forensic Psychiatry, **7(3)** 570-580.

This found:

- Conflicting legal advice.
- No formal system of implementation.
- Ambiguous nature of the role, and
- Difficulties in relation to issues of confidentiality and independence.

6.

Not all detainees seek legal advice and in the case of mentally disordered offenders this may be because they do not understand their legal rights or because of the manner in which they are explained. This paper sought to examine the feasibility of employing Duty Solicitors in the role of AA.

Pearse, J. and Gudjonsson, G. H. (1996d) Police interviewing and mentally disordered offenders: Changing the role of the legal adviser. Expert Evidence, **5(1&2)**, 49-53

A number of recommendations were made in this article which included:

- Amending the Codes of Practice for police Custody Officers to positively encourage vulnerable suspects, or their AAs, to seek legal advice, and
- To re-define the role of the legal adviser in the Codes, to ensure that it more accurately reflects their duty of care for the welfare and emotional needs of their clients.

7.

Two papers examined the important role of the solicitor or legal adviser.

Pearse, J. and Gudjonsson, G. H. (1996e) A review of the role of the Legal adviser in police stations. Criminal Behaviour and Mental Health, **6**, 231-239.

This suggests:

- The presence of legal advisers continues to increase.
- Many legal advisers are not qualified solicitors.
- Concern has been expressed in terms of the quality and cogency of the advice given.
- Many advisers adopt a passive or compliant role.

8.

The second paper concerned with legal advisers provides details from this particular study.

Pearse, J. and Gudjonsson, G. H. (1997) Police interviewing and legal representation: a field study. Journal of Forensic Psychiatry, **8 (1)**, 200-208.

These findings included:

- A legal adviser was present in 91 (56%) of the cases, the highest recorded figure to date.
- Qualified solicitors accounted for 39 cases (43%), with the majority made up by legal representatives, whose qualifications or status were unknown and rarely declared.
- A significant relationship was found between the presence of a legal adviser and
- (i) a suspect's decision to exercise his or her right to silence ($X^2 = 14.2$, d.f.=1, $p = <0.0001$), and
- (ii) a suspect's decision not to confess ($X^2 = 15.1$, d.f. =1, $p = <0.0001$).
- A confession or admission was made in 58% of the cases.

9.

The latest paper examined (i) whether psychologically vulnerable suspects were more likely to confess than their more robust counterparts and (ii) subjected the results of the clinical evaluation and psychometric tests, together with the analysis of the interview tapes and outcome of the case to a logistic regression analysis to identify any variables that might predict the likelihood of a confession.

Pearse, J., Gudjonsson, G. H., Clare, I. C. H. and Rutter, S. (1997) Police interviewing and psychological vulnerabilities: predicting the likelihood of a confession. To be published in the Journal of Applied and Social Psychology.

This found that:

- Psychologically vulnerable suspects (in this sample) were not more likely to confess.
- Suspects were more likely to confess if they had consumed an illicit drug in the previous 24 hour period, and
- Suspect were less likely to confess if they had legal advice or had some experience of prison or custodial remand.

PROTOCOL FOR POLICE STATION STUDY

At the beginning say: **May I remind you that we are not prepared to discuss what you've been arrested for. We are nothing to do with the police.**

Custody Record Number:

Number of Subject:

Police Station:

Date seen:

Sex:

Ethnic origin:

Name:

Peckham/Orplington

Time seen:

Age:

Caucasian	Yes	No
Afro-Caribbean	Yes	No
Indian sub-continent	Yes	No
Other	Yes	No
Don't know	Yes	No

Offence of which suspected:

1. Occupation:

If unemployed please note, and note nature and date of last paid employment. If not employed since leaving school, please note.

If unemployed, please ask whether person attends day centre -
if Yes, ask what type. Yes No

2. Have you got any academic qualifications? Yes No
If yes, what? (just number and level)

3. Have you drunk any alcohol in the last 24 hours? Yes No
If yes, what, and approx. how much?

4. Have you taken any drugs in the last 24 hours other than those prescribed by a doctor? Yes - No - DK
If yes, what?

5. Have you any previous criminal convictions (inc. as a juvenile)? Yes - No - DK
If yes, number. If possible, please find out what for.

If yes, to Q. 5, has the person ever been in prison/DC etc. (after conviction)? Yes - No - DK
If yes, how many times, and what for?

6. Have you needed medication for the following at

any time in the last 12 months (year):

If yes, at what date?

a) Epilepsy Yes - No - DK

b) Nerves/Feeling low Yes - No - DK

c) Diabetes Yes - No - DK

d) Heart problems Yes - No - DK

If yes, have you been in hospital for any of these conditions within the last 12 months? Yes - No - DK

7. Are you taking any medication prescribed by a doctor at present? Yes - No - DK

If yes, what is name of drug/what's it for?

8. How have you been feeling during past seven days:

Ask specifically whether the person has suffered any of the following (If the answer to any of the items is yes, get details):

a) Hearing voices? Yes - No - DK

b) Sleeping badly (trouble getting to sleep, staying asleep, or waking early)? Yes - No - DK

c) Feeling off their food? Yes - No - DK

d) Finding themselves crying more than usual? Yes - No - DK

e) Feeling Low? Yes - No - DK

f) Feeling like killing themselves? Yes - No - DK

g) Feeling that other people are talking about them? Yes - No - DK

9. Ask the following question in exactly these words:

Have the police explained to you what you are and are not allowed to do while you're at the police station. This means have they told you your rights?

Yes - No - DK

Regardless of the answer, ask:

What do you know about what you're allowed to do at the police station?

10. Please ask the person to answer Yes or No to each question.

1. Do you have to answer the police questions even if you don't really want to? Yes No

2. If you say anything to the police and your case goes to court, can the police tell the Court what you've said to them? Yes No

3. Is it true that you only need a solicitor if you've done the crime you're being questioned about (ie you're guilty)? Yes No

4. Do you need money in order to have a solicitor to help you at the police station? Yes No

5. If you ask the police to tell your family or someone who cares about you that you're at the police station, will they normally contact them? Yes No

6. Do you have to give the police money before they'll contact someone who cares about you? Yes No

7. If you say anything to the police, do you have to tell them the truth? Yes No

8. If you don't want a solicitor to help you or someone told that you're at the police station straightaway, are you allowed to change your mind later? Yes No

11. Ask **Have you got the leaflet explaining your rights (what you are and aren't allowed to do) with you now?** Yes No
If no, ask where it is?

12. Ask **Have you read the leaflet explaining your rights (what you are and aren't allowed to do)?** Yes No
If no, ask why not?

13. **How has the person seemed during the interview?**
If answer to any of the following is Yes, put details.

a) OK: Yes - No - DK

b) Intoxicated: Yes - No - DK

c) Drugged: Yes - No - DK

d) Crying: Yes - No - DK

- | | |
|---|---------------|
| e) Very agitated/distressed: | Yes - No - DK |
| f) Angry/suspicious: | Yes - No - DK |
| g) Withdrawn/suspicious: | Yes - No - DK |
| h) Mentally ill: | Yes - No - DK |
| i) Learning disability: | Yes - No - DK |
| j) Language problems: | Yes - No - DK |
| 14. Does the person require treatment?
If yes, for what reason? | Yes - No - DK |

Time interview ended:

Research coding frame for interviews at Peckham and Orpington Police Stations

1. Number of Custody Record
2. Police Station (Peckham = 1; Orpington = 2)
3. Date arrested
4. Time arrested
5. Time at police station
6. Age of suspect
7. Gender (m=1; f=2)
8. Race (code 1 - 4)
- 8a. Offence category (1-8)
9. Seen by FME before interview (yes=1; no=2; n/a=3)
10. Seen by FME during or after interview (yes=1; no=2; n/a=3)
11. AA consulted (yes=1; no=2; n/a=3)
12. AA attended (yes=1; no=2; n/a=3)
13. Solicitor requested (yes=1; no=2; by other than suspect=3)
14. Time solicitor requested
15. Consultation with solicitor (yes=1; no=2; with leg rep=3)
16. Solicitor attends station (yes=1; no=2; leg rep=3)
17. Assessed by psychologist (yes=1; no=2; refused=3; interrupted=4; terminated=5)
18. Number of police interviews
19. total time interviewed (in minutes)
20. Time at first interview

21. Date at first interview
22. Date released from custody
23. Time released from custody
24. Number of police officers present during interview
25. Sex of interviewers (m=1; f=2; both=3)
26. Remind of right to a solicitor (yes=1; no=2; n/a=3)
27. Caution given on tape (yes=1; no=2)
28. Solicitor / leg rep present during interview (all=1; some=2; none=3; n/a=9)
29. AA present during interview (all=1; some=2; none=3)
30. 'Off-record' conversation repeated on tape (yes=1; no=2).
31. Evoked right of silence (fully=1; partly=2; no=3)
32. If partly, suspect distinguishes between personal and crime related material (yes=1; no=2; n/a=3)
33. Confession made (full confession=1; partial confession=2; full admission=3; partial admission=4; no con/admission=5)
34. When confession made (beginning first interview=1; later in first interview=2; subsequent interview=3; no con/ad=9)
35. Interventions by solicitor during interview (yes=1; no=2; n/a=3)
36. Interventions by AA during interview (yes=1; no=2; n/a=9)
37. No. times suspect seeks advice from solicitor in interview
38. Reactions / responses of the suspect to the interview (yes=1; to some degree=2; no=3)

Generally compliant
Polite
Abusive
Agrees readily with the officers
Gives full answers
Gives motive for crime
Sounds confused
Sounds very distressed
Crying/sobbing
Inappropriate answers
Does not appear to understand questions
Self-blame/expressions of remorse
Repeated denials
Confesses readily
Appears angry or suspicious

39. Type of interview tactics adopted by the police (yes=1; to some degree=2; no=3)

Confrontation about evidence (forensic, witness etc.)
Direct confrontation (lies or inconsistencies)
Confronts suspect with past bad behaviour
Confronts suspect with information from accomplice
Tells suspect it is in his interest to confess
Tells suspect futile to deny it
Asks leading questions about alleged offence
Asks open ended questions
Mr. Nice / Mr. Nasty technique
Initial build up of rapport
Build up of trust
Manipulating self-esteem
Minimising responsibility/consequences
Inducements
Allegations repeated
Threats (e.g., that will be detained longer)
Emphasises seriousness of the offence
Minimises seriousness of the offence
Provides face saving excuses

**POLICE INTERVIEWING: AN EXAMINATION OF SOME
OF THE PSYCHOLOGICAL, INTERROGATIVE AND
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APPENDIX TWO

JOHN J PEARSE

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CODING FRAME 1 - TAPE DETAILS

VARIABLES:	COMMENT:
Time: this tape	A digital time counter was employed in this study to standardise the measurement of all tapes. Documentation and audio references were not reliable. In one case, according to the officer (using a wall clock) the interview starts at 7.45pm and finishes at 7.55pm. The encoder (and a stop watch) revealed a time of 12 mins.
Total	Total time recorded for all tapes of interview - up until the confession, when the analysis ceased.
24 Hour Ref:	To establish whether the interview was at an unsociable hour and possibly contrary to PACE, e.g., in the early hours of the morning, without an adequate explanation.
No. Officers	Number of officers present.
SEX:	Gender of interviewing officers.
Adult -Juvenile	Juvenile = 16 years and under.
Legal rights: Caution.	Caution given, fully, in part or not at all. A number of issues may be relevant. 1. Where more than one tape is used, the caution should be administered again (Code C 10.5 & 10A). 2. Cases may be prior to or post the introduction of the new police caution (Criminal Justice and Public Order Act, 1994).
Understand Caution?	Often officers follow the caution by asking, 'Do you understand that?'
Test Understanding?	Crucial point is, do the officers test the suspect's understanding of the caution?
Does the suspect understand it?	If so, does the suspect understand it? Importance of the caution outlined in Chapter Three (fitness for interview). Such issues may give some indication of the suspect's cognitive ability.
Right to legal advice.	Reminder, on tape, of right to legal advice and that it is free. How is it delivered?
Status of adviser.	Is it possible to determine the status of the legal adviser?
Appropriate Adult.	Present, yes or no?
Need for an AA.	Based on all the available information, should there have been an AA present?
Reminder of AAs role.	Did the officers, on tape, remind the AA of their role in accordance with the Codes?
Intervention: Legal adviser	Did the legal adviser intervene?
Nature of Intervention (positive or negative)?	Positive, e.g., on behalf of the welfare, legal rights or interest of the client. Negative, minor administrative matter or assisting the officers in their investigation. Should an intervention have been made?
Intervention: AA	Did the AA intervene?

Nature of intervention (positive or negative)?	If yes, was it appropriate? If no, should they have?
Evaluation: Legal adviser	According to positive/negative dimension above.
Evaluation: AA	As above.
Extensive gap?	There may be a legitimate reason for an extensive gap (more than one hour) between tapes.
Still denying offence?	In cases where there is an extensive gap, does the suspect continue to deny the offence? In such circumstances it is legitimate to continue the analysis.
Earlier conversation?	Is there any evidence that an earlier conversation has taken place with the suspect?
Police, legal adviser, or other.	Where there is evidence of an earlier conversation, who was it with?
Agreed conversation.	Is the earlier conversation agreed between the parties? I.e., spoken about.
Environmental conditions	Environmental conditions may be relevant to process of confession. In one case reference is made to the hot and sticky conditions (requiring the introduction of fans into the room). This was considered relevant, as the officer warns the suspect he does not want the questioning to go on for three days!

CODING FRAME 2 - INTERVIEW TACTICS

STRATEGIES:	COMMENT REF.
Delivery	
Open questions	Allows suspect to provide an account. Often a feature of the early stages of an interview, although this is not always the case.
Closed questions	Requires answer of very few words.
Leading questions	Contains premises, expectations. Indicates expected answer, e.g. 'Yeah and you turned some of the drawers out as well didn't you?'
Echoing	Repeating a phrase or the last few words of the reply. May prompt elaboration of specific point or invite further comment.
Multiple questions(>2)	More than two questions in one sentence, e.g., 'Give me a reason and we'll go away and investigate it, we'll explore it. Why would they lie? They're not lying are they.... ? They're not. Hey come on let's get this matter dealt with. You tell me what happened and we'll see where we go from there shall we? When did it all start? Take your time, you're not going to shock us I can promise you that.' The suspect, who has a speech impediment, then begins to say, 'I said I'm' only for him to be interrupted by the same officer with, "You've got all the time in the world, there's no rush." As a result, the suspect fails to answer.
Multiple assertions(>2)	More than two assertions, e.g., 'It's only on your admission - he's not going to know that you didn't want sex - because you've not told him - and you've had sex with him previously - you've been kissing and cuddling - performing oral sex - He's not going to know that that's not what you want.' This example was delivered by an AA and coded as a tactic. Where there is a combination of assertions and questions, coded according to majority.
Multiple officers	Questions from both officers without allowing the suspect the opportunity to reply.
Interruptions	Literally, stops the suspect completing his response. This has to be a substantial interruption as opposed to a further question to prompt the suspect or one interjected as the suspect's answer is trailing off naturally. Sometimes the suspect will object. 'Was she not shouting out while she was on the floor, telling you to stop?' A - 'Well if she was shouting out like - officer interrupts - 'Yeah but what do you think she was shouting then?' A - ' You didn't, you didn't let me finish. If she was shouting out, her friends would have heard her and come over.'
Raised voice/pitch	Literally; Intonation heard to rise, Includes shouting on the tape.
Lowers voice/ tone	Introduces a softer and friendlier tone, almost seductively. Very difficult to implement given questionable quality of some tapes.

Use of silence	Long pauses, in excess of 9 seconds, often after leading questions or allegations, e.g., 'Can you just think about what I've said at the end of the last interview tape, about the fact that I think you should get this off your chest if you have done it and for the sake, for your sake and (victim's) sake we get this out in the open. I appeal to your good character, your previous good character to tell us about it.' There was then a 44 second silence.
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Maximisation	
Maximise serious nature of offence	Increases suspect's perception of serious nature of allegation, often by merely emphasising offence category.
Maximise anxiety	Increases suspect's internal anxiety or fears. For example, 'I know its hard to own up to things.....Its quite tough. But in the end its the best way... I mean, even if you denied it for the next ten years, you know deep down inside what happened yourself...That's something you've got to cope with, yes?'
Threat	May be a direct threat of continued detention, (we don't want to be sitting here for the next three days) or implied, where the officers make it abundantly clear that questioning will continue until they have 'got it right'.
Confront allegation	Categorically asks, did you commit crime? For example, 'I'm going to ask you straight out. Did you start them fires?' or, 'You put your hand inside her pants and touched her private parts'.
Introduce evidence	Standard introduction of witness, forensic or other evidence.
Imply evidence	Imply that there is or will be evidence. 'We'll check the area where the fire was....We may well find some foot marks or other evidence which we can use, and I've taken off your shoes'.
Appeal / plea for truth	For example, 'I appeal to your good character, your previous good character, to tell us about it. Or, Now its important that you tell me the truth here, cos that's all we want really, is the truth for everyone's sake. You will tell me the truth now will you?'
Challenges: Is witness lying?	Compares witness account with suspect's version, or asks, is witness is lying?
Suspect is lying, or is not believable	'I think you have told so many stories you don't know what the truth is anymore, do you?' or, 'I think your lying, I know you're lying.'
Inconsistencies	Highlights some inconsistency with previous answer. For example, 'So why would the woman from the shop phone the fire brigade if the fire brigade were already there?'
Past criminal behaviour	Introduces previous behaviour (convictions or otherwise). 'But you stabbed a boy three, four years ago with a knife....'
Inform from accomplice	Introduces evidence (hearsay or otherwise) statement, or words of accomplice(s).
Pantomime	More than two examples of 'yes you did, no I didn't', e.g.,

sequences	<p>I wasn't in on Wednesday night you were. I wasn't. I'm telling you now that you were I wasn't in there Wednesday night We have got several people who put I wasn't in on wed night Between 9 and 10 you went in I wasn't in there we've got people I'll tell you now.....</p>
Dispute frequency	<p>Number of times in an interview session officers call suspect a liar, dispute his version of events, undermine credibility of his responses. For example, '... then start telling the truth; well I for one don't believe you; I have evidence to the contrary which puts you in a different place; you're all telling lies; well I can prove you were doing other things at those times.'</p>

Manipulation	
Manipulate details	<p>Changes detail or fails to include all information, from a witness statement. Will also include where an earlier comment from the suspect is changed to suit the prosecution argument. In the Heron judgement the officers portrayed the identification evidence as incontrovertible, when on examination it was seriously flawed. Another example, 'Does any body else in the house wear glasses? A - Me sister, me brother's supposed to and me nephew's supposed to..... (2 questions later) So of the people in the house there's only you wears glasses?'</p>
Manipulate self esteem	<p>A direct or subtle reference to lower or raise suspect's self esteem. 'You're not just man enough to stand up and say, you know alright, sorry, I did it, are ya?'</p>
Minimise seriousness nature of offence	<p>Reduces serious nature of offence. May reduce robbery (life impr) to a theft.</p>
Minimise responsibility	<p>Reduces suspect's responsibility. 'I'm not saying that you wanted to set a big fire, or You're not interested in hurting anybody or doing any serious damage'</p>
Suggest scenario or theme	<p>Direct, but often subtle suggestions or themes. For example, the suggestion that a suspect 'has a problem' with the loser in the case, or with his father and other people, a continuing theme. At time of confession suspect says 'I had a, I had a, problem like'</p>
Think of, use or manipulate others or third party reference	<p>In a rape allegation for example, '...you see you'll put her through possibly the ordeal of standing in the witness box, would you? That's what we're possibly talking about at the end of the day. Talking about her standing in the witness box and giving her story, and you giving your story and the jury deciding who's telling the truth.'</p>

Inducements or offers of help	Promise of help or assistance.
Reassurance or display of empathy	For example, ' ... would you also understand that when I'm talking to you in interview I can't lie about things. I can't say something's happened when it's not. Do you understand what I'm trying to say? or, I'm not here to trick you, yeah, because I'm not allowed to trick you.'
Flattery or reinforcement	Praises suspect, perhaps builds up their confidence, emphasises positive aspects. For example, ' you're not a violent man, and somewhere you are pretty honest feller.' Also, 'Thank you for being honest with us, it's probably taken a lot of nerve to admit it.'
Suspect's interest to confess	Outlines benefits that can accrue from confession. You will feel better if you confess, e.g., the courts will be more lenient.
Trained and experienced officers	As experienced investigators 'we know' when someone is lying. For example, ' ...you see can I just tell you that as a trained interviewer I know when you're telling the truth,' or '... we can tell, we can tell you did it.'
Shame reduction	Often employed in sex abuse cases. An attempt by the officer to reduce any sense of shame. For example, a female officer who comments, 'So were you playing with your penis? I'm married, I've got a husband, I know men and men do masturbate. It's not an unusual thing so don't, I know it's probably not easy for you to talk in front of me but I've heard all this before and there's nothing you're going to say that's going to shock me so don't, try not to feel embarrassed. I know it's not easy for you.' Immediately after this the suspect replied, 'OK, I was playing with my penis'.
Use or reference to non verbal behaviour	'I can tell you know him, it's written all over your face', and, 'I can see, it's in your face man.'

CODING FRAME 3 - SUSPECT RESPONSES

CATEGORIES:	COMMENT: REF.
POSITIVE.	
Confession	Gives full account, accepts responsibility. Question of Intent.
Time of confession	Literally.
Admission	Self incriminating statement, minor player, some degree of corroboration. Includes admissions to lesser offences.
Time of admission	Literally.
Withdraws confession	'I wouldn't have touched her, I just said that, I just wanted to get this over and done with, even things I didn't do, just say I done them.'
Admission for another	'I didn't but (so and so) did', remark.
Agrees with, accepts, or accedes to.	As well as 'yes' or 'yeah' the mmhs and aahs that were abundant throughout this sample. Can be negative, e.g., 'So you weren't nowhere near the Boar's Head? A - No.'
Provides account	Wide ranging response, a few words to long monologues. Can be just No. e.g., 'Can you remember what you were wearing? A - No'. 'Do you trust him? A - No.'
Provides alibi	Any form of alibi statement.
Free narrative account	Open, unharried account, may be interspersed with prompts (yes, mmhs, ok) often to open question regarding the offence. Such accounts may extend beyond one segment.
Introduce qualification	Qualifies or extends initial response, may provide damning intimate or exclusive knowledge. e. g., Were you on coke? A - 'Coke and Weed.'

NEGATIVE	
Deny, dispute or declines to agree	Denies account, rejects allegation, says no. Yes may be a denial. 'Are you sure you didn't go in the pub? Yes'
Challenge account or inference	Refutes suggestion or underlying inference. Often exemplifies resistance and assertiveness. For example, 'What are you trying to say, that I wanted to have sex with that other woman?' or, 'You didn't hear me say that, and you are putting words into my mouth now. I didn't say she gave me anything.'
Cannot remember	Literally
Right of silence:	As defined in Chapter Seven (very rarely employed).
Partial silence	Selective silence, regarding crime or personal matters.
No reply	Fails to answer and further question asked. Not right of silence.

INFORMATION or KNOWLEDGE	
Seeks information	Suspect requires or attempts to obtain more information, e.g., in an arson case, 'Where is the second fire?' or, 'Did it go all the

	way down then?' May reflect lack of detail in question.
Disposal Information	'Will this go to court?' or perhaps, will suspect be put in prison.
Explicit mention of early release	'Will I get out of here?' (station or institution).
Repeat or pardon	Suspect repeats question or last part of it, or asks officer to, e.g., '.....tell us what you remember now, what happened on the 7th July? A - What I actually did all day?'

RATIONALISATION	
Minimises offence	Distorts reality to some degree. Reduces serious nature of act.
Minimises responsibility	Reduces role played in commission of offence.
Accepts scenario	Adopts a theme or scenario introduced by officers.
Gives motive or reason	Provides motivation for offence, reason, justification or excuse. For example, 'I don't like people taking liberties with me like that,' or 'How hard did you shake him? Well as hard as I got shook when I was little.'

PROJECTION	
Blames victim or other party	Apportions blame to another party or to something said or done by the victim.

EMOTIONAL	
Distressed or crying	Literally, sounds distressed or is heard to cry. For example, ' Can I have a cigarette please to calm me down?' or, ' all I am feeling at the minute is pain. Not physical pain, emotional pain.'
Feeling tired or low	For example, ' ... yeah, I'm tired, I'm so tired.'
Lack of orientation	Evidence of confusion re orientation in time, place, person.
Confused, does not understand question or gives inappropriate answer.	Does not appear to understand the question or has provided an inappropriate answer. This will include, sorry I didn't understand that.. Or, as an inappropriate answer, 'When a man puts his penis up a female's vagina, what is that? A sex. Q So what were you doing? A sexing!!'
Seeks assistance	Literally: may be from legal adviser or AA
Self Blame or remorse	'It's my fault, I'm sorry', or 'I still blame myself for that.'
Indication of Vulnerability	May be a specific reference or an accumulation of remarks. Will include for example, 'Do you feel you need help? A - 'No, only with reading and writing.' or, 'I hear voices in my head. And I hear evil spirits. And they talk to me, I've seen them.' Also, 'I'm not sure I may have done. You see I suffer from blackouts and that effects me memory.'
Raised voice or pitch	Literally, intonation heard to rise. Includes shouting on the tape.

CODING FRAME 4. INTERVIEW EVALUATION

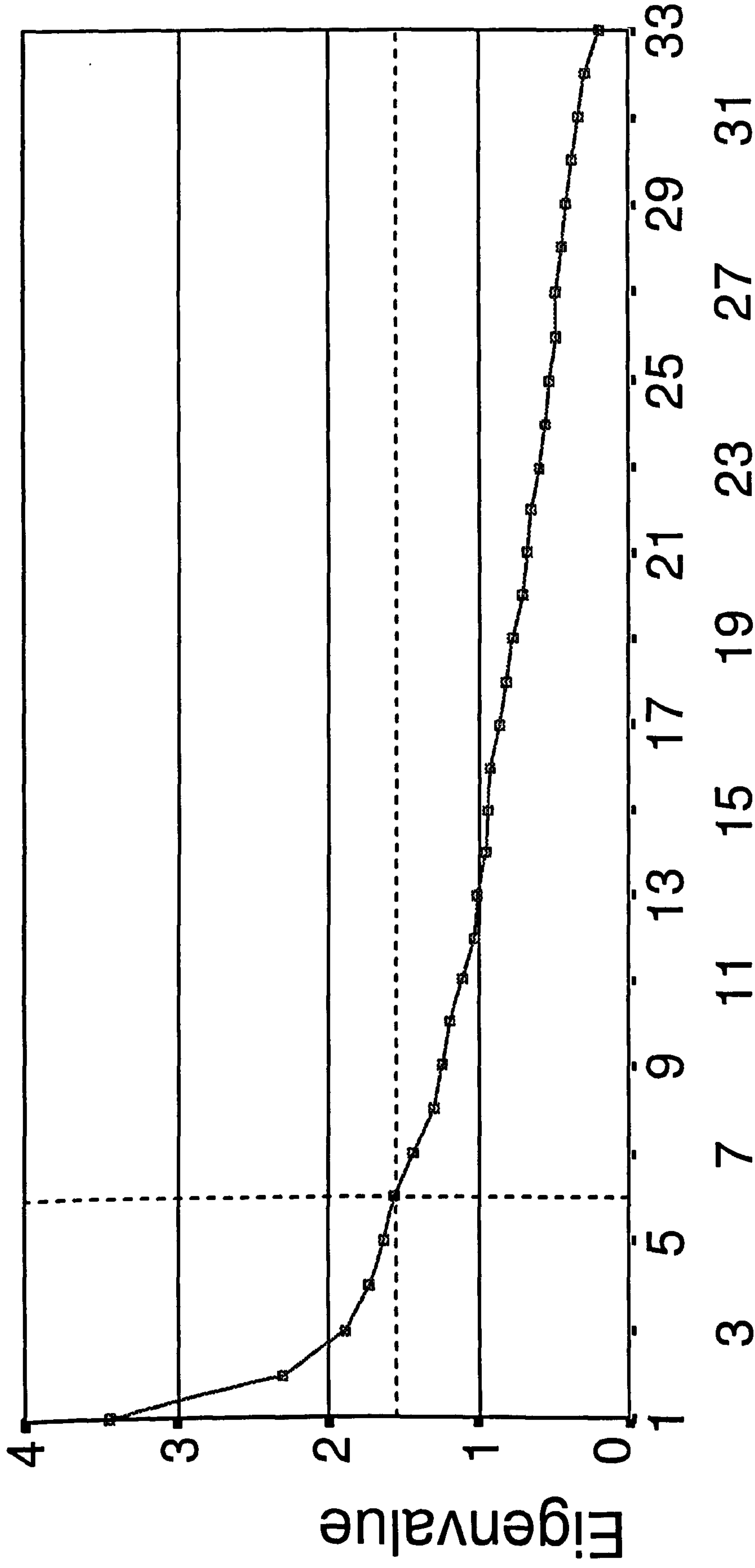
INTERVIEWING SKILLS	COMMENT
PLANNING & PREPARATION	Grasp of detail, locations or people. Exhibits and papers ready. Evidence of research. Prepared for silence or requests. Example of a poor start. 'It's er, Thursday or is it Wednesday, Thursday?' AA intervenes - 'Wednesday.'
ENGAGE & EXPLAIN	Explain procedure. Common courtesy, rapport, needs confident start. Listening skills, fluent, appropriate pauses. Questioning skills, fair, not oppressive. Rapport, defined as " ... being genuinely open, interested and approachable, in a personal way that will be appreciated and hence reciprocated by the respondent. You should avoid being formal, distant, and uninterested in the other's feeling or welfare." (National Crime Faculty, 1996, p13). In one case (very young mother accused of murdering her child) good introduction by officer. 'Right as we go through this interview I am interested in your version of events. It is your story, we will just sit quietly and allow you to tell us in your own words, you can take your time, if you're not sure about anything don't hesitate to ask a question either of myself or this officer, your solicitor and the social worker present. If your not sure about the question please don't hesitate to ask and tell us that you don't understand the question. Are you quite happy with that?' A new male/female interview team take over later interviews. After inappropriate attempts at rapport male officer (on subject of sleepless nights) says '....I had one who was exactly the same. I know exactly what you mean, I remember like it was yesterday.' Suspect, 'It was only yesterday for me, wasn't it?'
ACCOUNT, CLARIFY AND CHALLENGE	Cognitive interview, free recall, use of other perspectives. Conversation management, full account, examine sections. Employs an open mind, tests alternatives. Fairness, flexible, and retain control. Listening skills (no interruptions), questioning skills (balance). Refrain from threats: - 'You are going to be in and out of homes and they are going to get worse and they are going to get more secure.' Or pantomime sequences, - officer's view of gap in suspect's memory for example,you've got a convenient gap It's not a convenient gap Come on man, its a convenient gap right the way through It's not a convenient gap Of course it is No it isn't Of course it is No it isn't

	It's a convenient gap It isn't a convenient gap
CLOSURE	Summary, check understanding. Chance to clarify, add, alter.
EVALUATION (Question of intensity and frequency)	1=Not at all 2=Somewhat 3=Often/much 4=Very often/much
OPENNESS	Courteous, considerate, adopts other perspectives, sensitive. Allows unhurried opportunity state position.
SKILFUL	Confident, fluent, appropriate pauses. Obtains relevant and credible information. Not easily detracted, retains control. Good listening skills. Poor listening skills: 'So when was the first time that you had found out that (she) was dead?' 'When I read the (paper)'. 'What time would that be?' 'About 2 o'clock in the afternoon. I read that she had been found dead at 10 o'clock in the morning.' 'You heard that she had been found dead at 10 in the morning?' 'Yeah'. 'Who told you that?' 'It was in the paper.....' 'What did it say?' 'It said she had been found dead, in a white building which had been used as an exchange and a recording studio.' A few minutes later, 'So how did you know that she had been found in that building?' 'It was in the paper.'
MANIPULATIVE	Suggests scenario or themes. Uses inducements, attacks self esteem. Employs face saving devices, manipulates details or minimises offence.
FORCEFUL or CONFRONTATIONAL	Drives interview and interviewee. Aggressive and persistent challenges. Judgmental, refuses accept views, disruptive, interrupts, makes threats.

CODING FRAME 5. PERSONAL CHARACTERISTICS

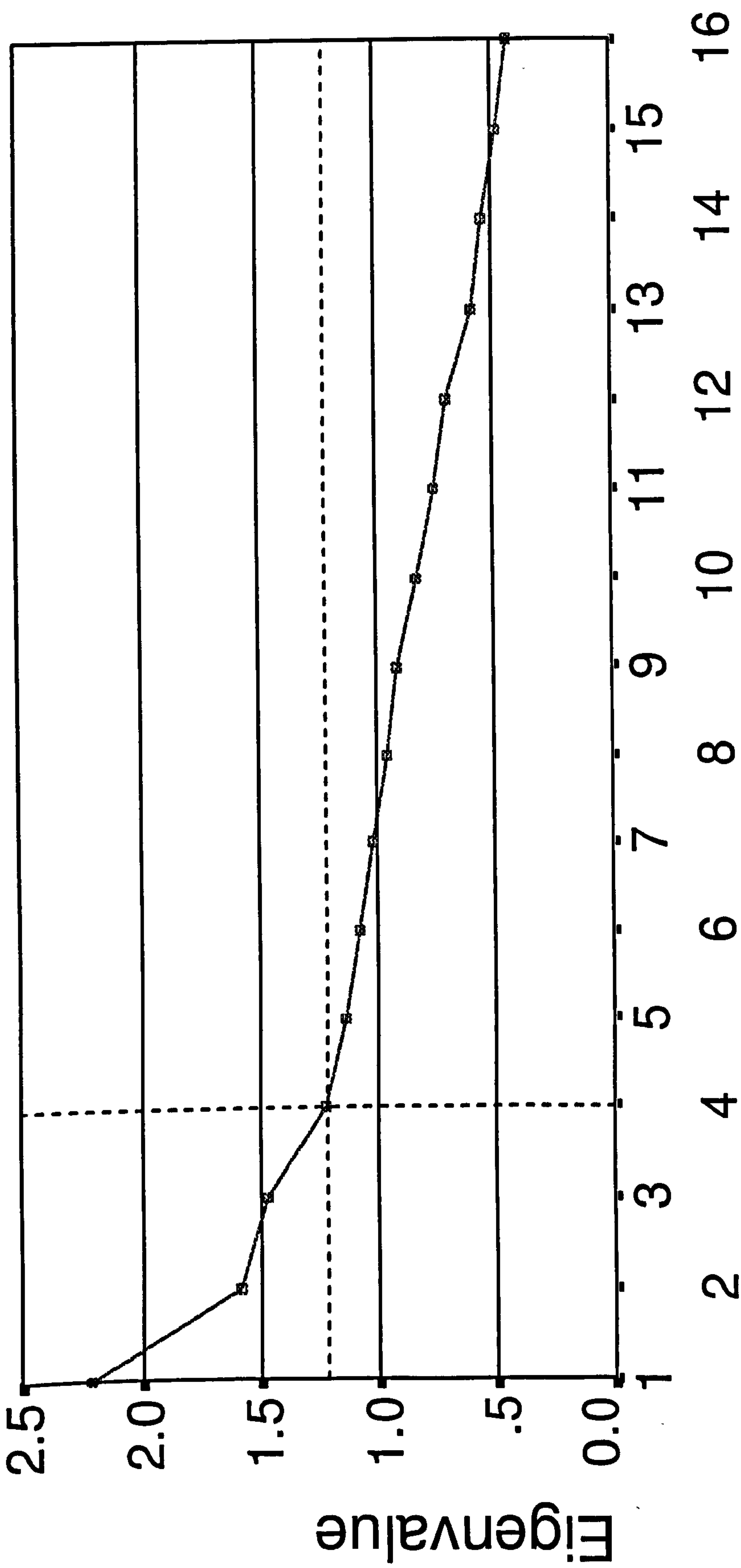
1.	CASE NUMBER			Y1	
2.	SEX (M= 1, F= 2)			Y2	
3.	AGE (At interview)			S	
4.	1= Cauc; 2= AC;			TSS	
	3= Asian; 4= other			CONF1	
5.	YEAR OF INTERVIEW			CONF2	
6.	1. HOMICIDE		10.	GSC SCORE	
	2. VIOLENCE		11.	ACQUIESCENCE	
	3. PROPERTY OFFENCES			P	
	4. SEXUAL OFFENCES			E	
	5. CRIMINAL DAMAGE			N	
	6. ARSON			L	
	7. DRUG OFFENCES		12.	EPQ	
	8. ROBBERY			P	
	9. OTHER			E	
7.	WAIS-R			N	
	FSIQ			L	
	VSIQ		13.	GOUGH SO	
	FSIQ		14.	ODQ	
8.	GSS1		15.	SDQ	
	M1		16.	N.F.A.	
	M2			MAG. CRT.	
	Y1			CROWN CRT.	
	Y2			CPS DISCONTINUE	
	S			REPORT INFLUENTIAL	
	TSS		17.	PLEA(1= G; 2=NG; 3 = COMB)	
	CONF1		18.	CONVICTED (0=NO; 1=YES)	
	CONF2		19.	PREV CONS (0 = NO; 1= YES)	
9.	GSS2		20.	PRISON EXP (0 = NO; 1= YES)	
	M1		21.	COUNTY / STATION	
	M2				

Scree Chart - Combined Group (tactics)



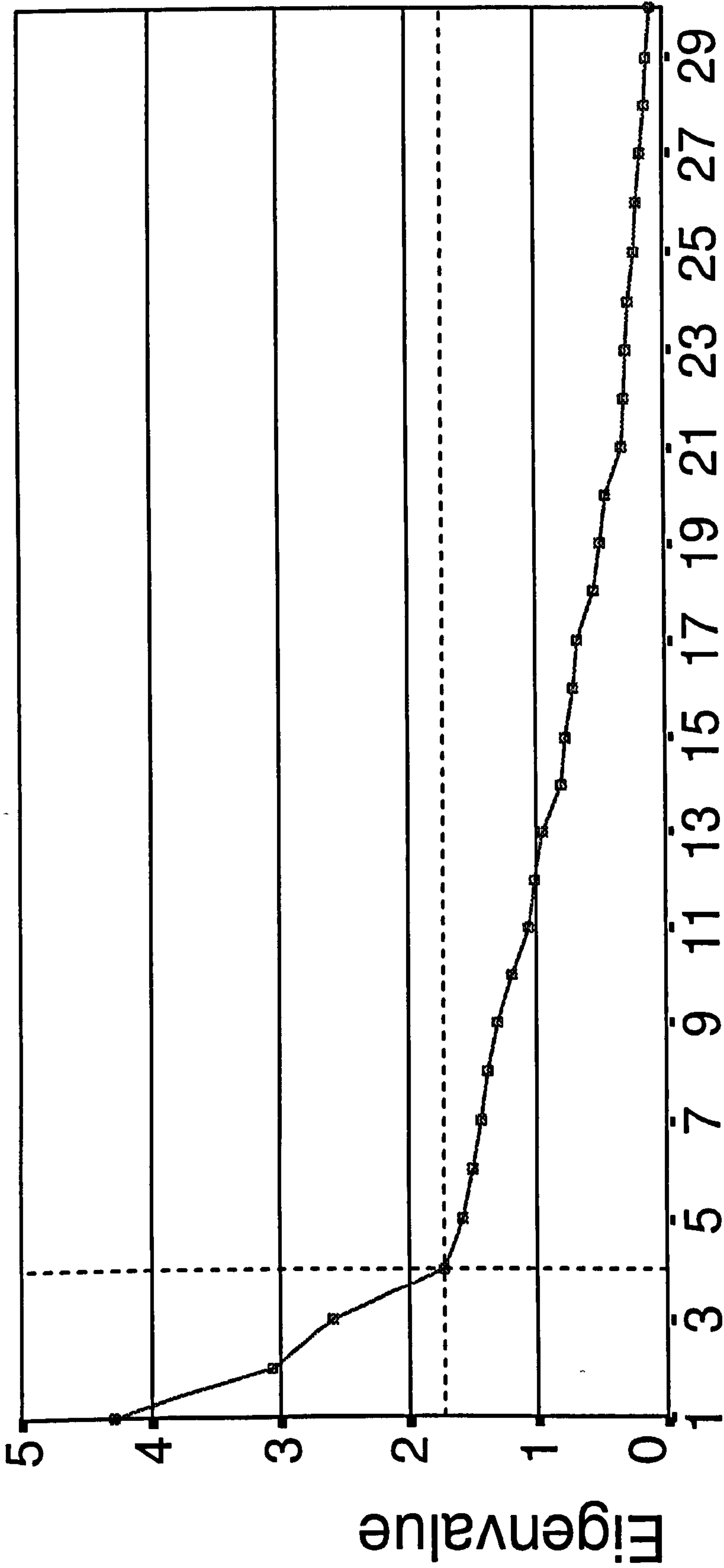
Factor Number

Scree Chart - Combined Group (responses)



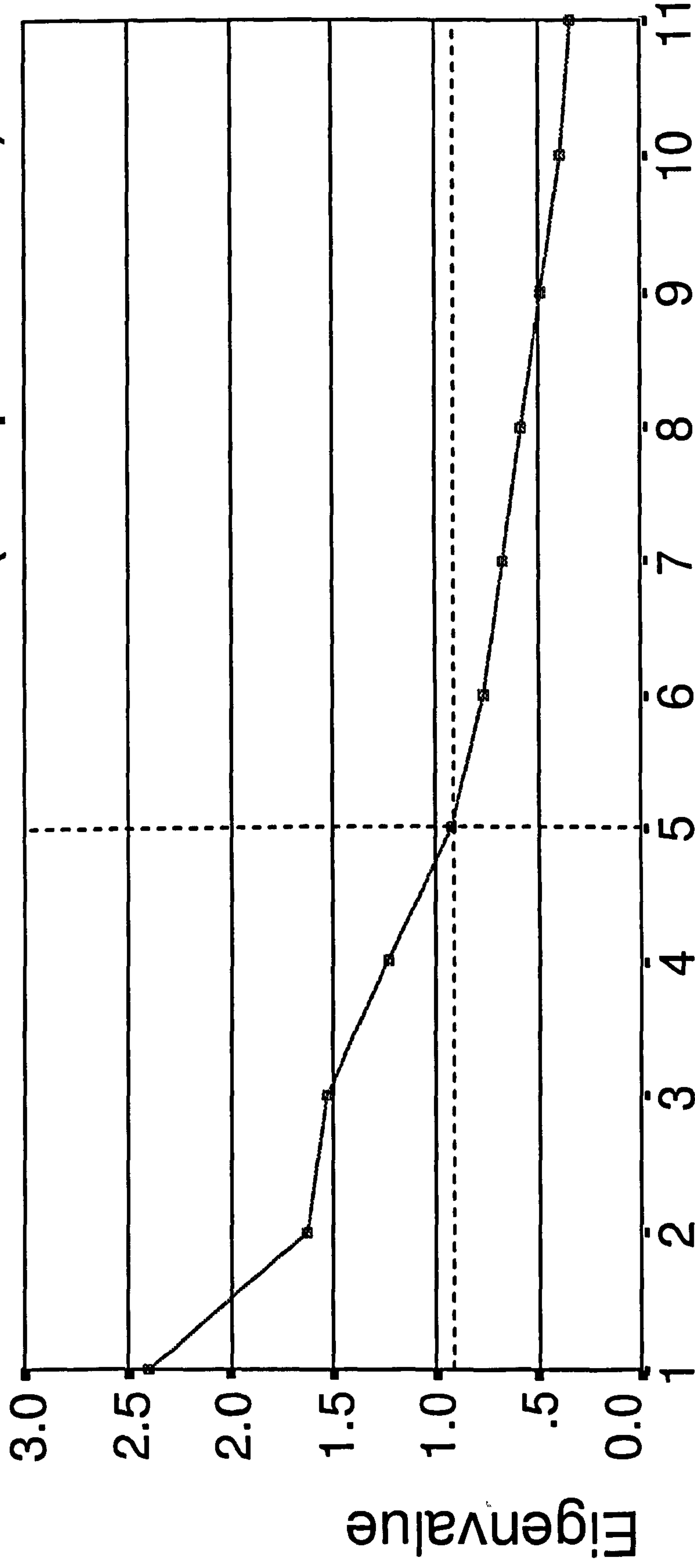
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Scree Chart - Heron (tactics)



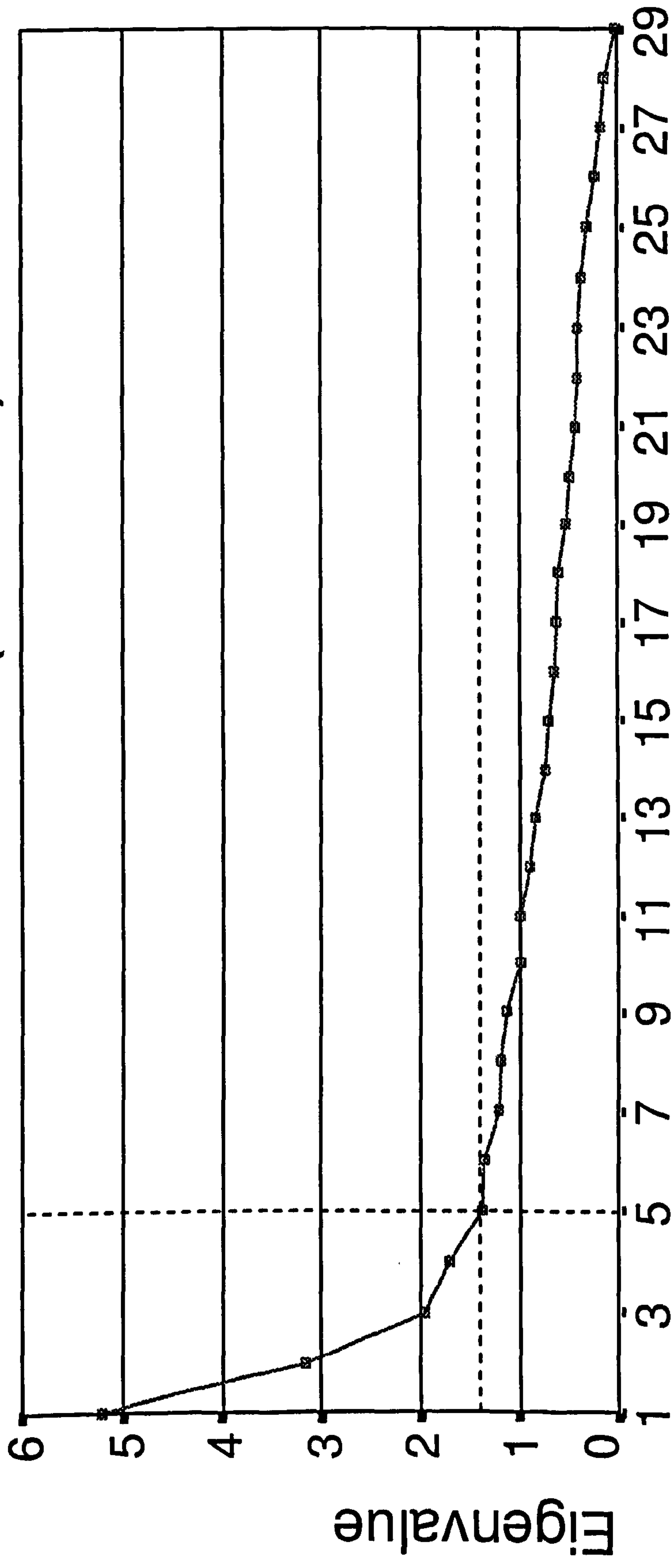
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Scree Chart - Heron (responses)



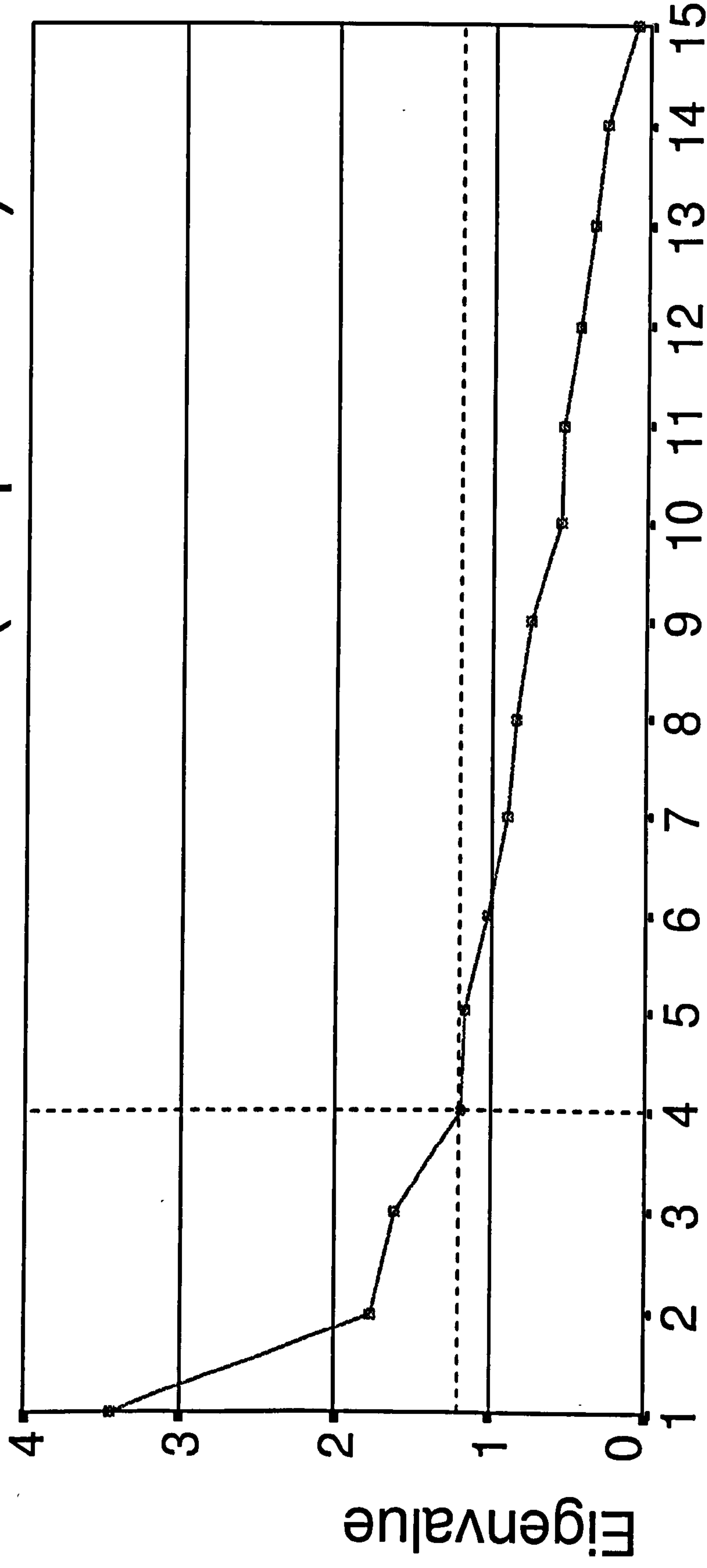
Factor Number

Scree Chart - Miller (tactics)



Factor Number

Scree Chart - Miller (responses)



Factor Number

**POLICE INTERVIEWING: AN EXAMINATION OF SOME
OF THE PSYCHOLOGICAL, INTERROGATIVE AND
BACKGROUND FACTORS THAT ARE ASSOCIATED
WITH A SUSPECT'S CONFESSION**

APPENDIX THREE

JOHN J PEARSE

**SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENTS FOR THE DEGREE OF DOCTOR OF
PHILOSOPHY.**

**INSTITUTE OF PSYCHIATRY
KING'S COLLEGE, LONDON
UNIVERSITY OF LONDON
OCTOBER 1997**

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An introduction to Case 1.

The suspect was an 18 year old youth who was alleged to have entered a house in the early hours of the morning with intent to rape a female occupier. The suspect admits entering the property (seeking a cigarette) but denies the intent to rape the woman. The interviews were conducted by a detective sergeant (male) and a detective constable (female), who both contributed to the interaction. There were two tapes of interview, conducted on the same day, which started at 15.09 hours and finish at 16.53 hours. The actual length of the interview was 1 hour and 17 minutes. The year was 1994.

A legal adviser was present (who was referred to as a solicitor although his actual status was unknown) but remained silent throughout the proceedings and received a negative coding. There was no AA present even though there were clear indications on the audio tape that the suspect was actively mentally ill (eg. 'I hear voices in my head.... And I hear evil spirits...'). The suspect managed to deny any 'intention to rape' despite a concerted effort on the part of the officers until some 66 minutes into the interview, when he asked to speak to his solicitor. On his return (after 12 minutes) the suspect announced 'Yeah, I did go into the house with intention of rape'. A surprised DS responded with 'Right, OK, so that's a little bit blunt...').

When assessed it was obvious that the suspect had a well documented history of mental illness (schizophrenia and affective disorder). His Full Scale I. Q. score of 82 placed him in the 'low average' range and he was found to be suggestible and compliant. This suggests a strong eagerness to please and a tendency to avoid conflict and confrontation. A plea of guilty was entered to the lesser charge of

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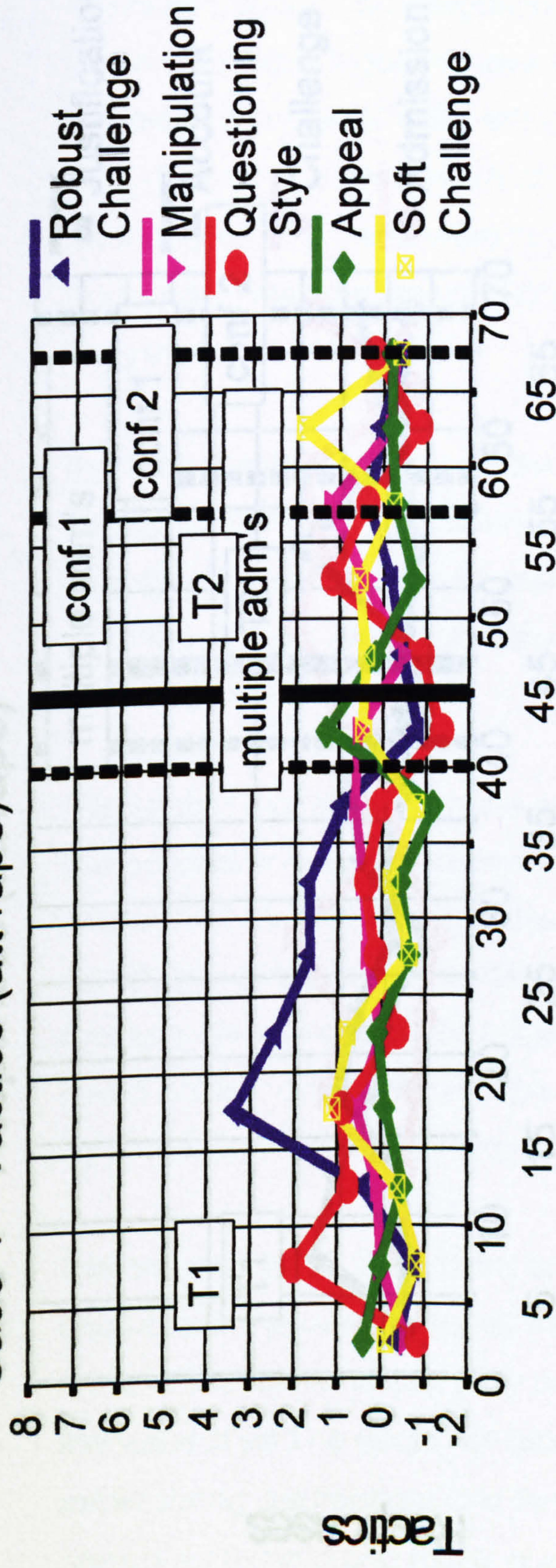
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burglary and a Hospital Order was imposed under the mental Health Act 1983.

Initial attempts were made by the officers to obtain open and free narrative accounts from the suspect, but his mental condition prevented this. It was a major deficiency on the part of the interviewing officers that they did not have an AA. Despite this set-back they were able to function well as a team and both began to introduce themes and suggestions. The female officer proved particularly adept in this department, having secured an admission from the suspect of his intentions (sexual) before entering the scene. Clear evidence of a single minded approach from both officers who began to manipulate and drive the suspect towards their stated aim. Appeared convinced of his guilt and unable to occupy alternative explanations. Evaluation. Open - 2: Skilful - 3: Manipulative - 4: Forceful - 3.

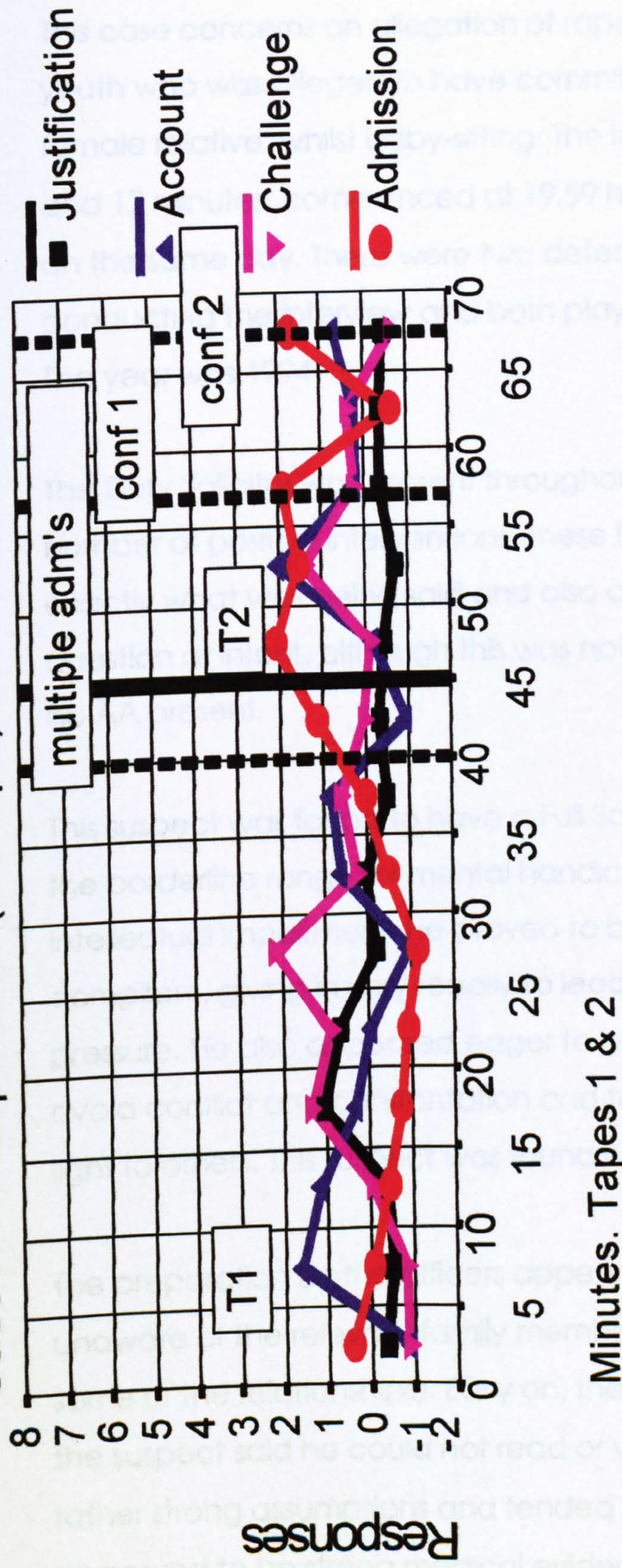
Case 1 - Tactics (att rape)



Minutes. Tapes 1 & 2

The Intimidation factor has been removed. Questioning Style (mainly leading and closed questions) dominate the tactics in the opening ten minutes. The Robust Challenge tactic is then evident and reaches **Marked** proportions. Here the officers refuse to accept his story and point out a number of possible inconsistencies and generally attempt to undermine his story, 'So you said first of all that you couldn't sleep... now you're saying that you were going looking for a prostitute'. Manipulation, was a subtle suggestion from the woman DC that his intention was to try and have sexual intercourse. This theme, and the same officer (using a soft, low tone) succeeds in eliciting the first relevant admission, -'Do you know what masturbation is?', 'Is that what you were doing?', '... we've taken your clothing haven't we?', 'We can do tests?', 'It's not the end of the world if you were'. He admits, 'OK I did think about having sex with her. I wouldn't have had sex with her, I did think of it. I did have a thought.' Having secured this 'chink' the officers maintain Manipulation and increase Soft Challenge with constant references to discrepancies between what the victim has said and the suspect's account. At one point the female DC left the room (shame reduction) prior to suspect making further admissions and eventually a confession.

Case 1 - Responses (att rape)



From the outset the suspect provides a brief Account of his version of events and then he begins to Challenge the rape allegation (just reaching a **Marked** level). There is a distinct upward climb from the Admission factor after 30 minutes which continues into T2. A **Moderate** use of both Account and Challenge are present in T2 prior to the first confession.

An introduction to Case 2.

This case concerns an allegation of rape, made against a 19 year old youth who was alleged to have committed the offence on a young female relative, whilst baby-sitting. The interview, which lasts for 1 hour and 12 minutes, commenced at 19.59 hours and finished at 21.17 hours on the same day. There were two detective sergeants (male) conducting the interview and both play an active part in the process. The year was 1994.

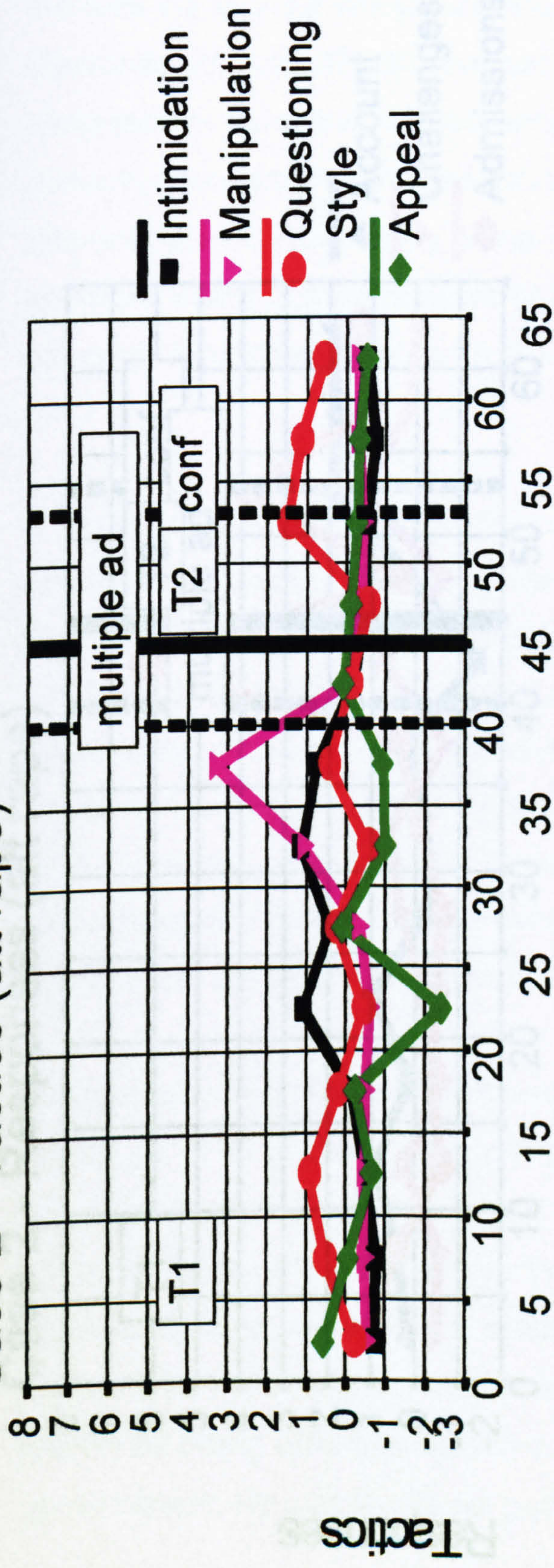
The Duty Solicitor was present throughout the interview and makes a number of positive interventions. These included, seeking clarification of exactly what was being said and also a passing reference to the question of intent, although this was not satisfactorily resolved. There was no AA present.

This suspect was found to have a Full Scale I. Q. score of 73, which falls in the borderline range for mental handicap, and represents a significant intellectual impairment. He proved to be abnormally suggestible and compliant, giving in very readily to leading questions and interrogative pressure. He also appeared eager to please, with a strong tendency to avoid conflict and confrontation and to present himself in a favourable light to others. This suspect was found not guilty.

The preparation by the officers appeared incomplete (they were unaware of the relevant family members and appeared to confuse some of the relationships). Early on, they did not pick up on the fact that the suspect said he could not read or write and the officers displayed rather strong assumptions and tended to be quite judgmental. There appeared to be strong medical evidence in this case but it was rarely

introduced. Overall the officers' listening skills were poor and the solicitor corrected a number of unfounded assumptions. This was a driven interview, with a large number of leading and closed questions. Evaluation. Open - 2: Skilful - 1: Manipulative - 3: Forceful - 2.

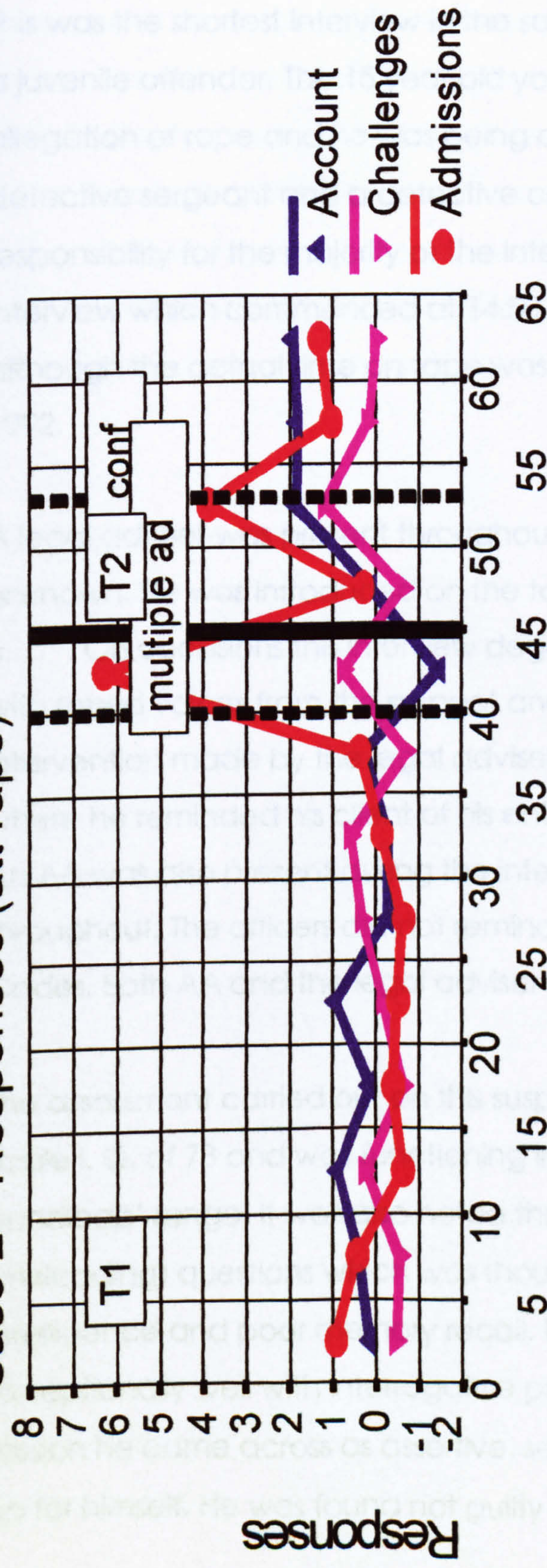
Case 2 - Tactics (att rape)



Minutes. Tapes 1 & 2

The two challenging tactics (Robust and Soft) have been removed. The graph indicates that for the first 30 minutes the factor scores do not extend beyond above plus 1 (questioning focuses on family composition and general routines). Prior to the first of a number of admissions however, the tactic Manipulation was employed to a **Marked** extent. Some pressure is applied by introducing evidence from the young victim ('.she doesn't lie, she doesn't tell lies, little girls of that age don't lie about things like that....' and 'She has been seen by a doctor and we are satisfied that what [she] said was correct....'). The officers continue 'using' the tender age of the child and the integrity of her evidence and then switch to the suspect needing help ('... somebody in that position might need some sort of help....'; '... it may well be that you need a little bit of help..'). As well as offers of help (inducements) some minimisation also takes place ('...you're not the only person in the world that this has happened to..', and '... though the little girl may have been hurt, you may not have meant that...'). The officers continue with this theme up to the first admissions. In Tape 2 the tactic, Questioning Style amounts to an excessive number of closed questions (111 in 20 minutes) which eventually secures a full confession.

Case 2 - Responses (att rape)



Minutes. Tapes 1 & 2

The response factor Justification rarely deviated from the mean and has been removed. The graph indicates that the suspect's responses remained within the *Average* band until the first of a number of Admissions was made towards the end of T1. In T2 the suspect continued to make Admissions leading to a confession. These Admissions reached an *Extreme* level and are an accurate reflection of the excessive number of closed questions employed by the officers, which elicited a large number of minor admissions, before culminating in a confession. This was a highly suggestible individual and the graph indicates that the suspect offered few Challenges.

An introduction to Case 3.

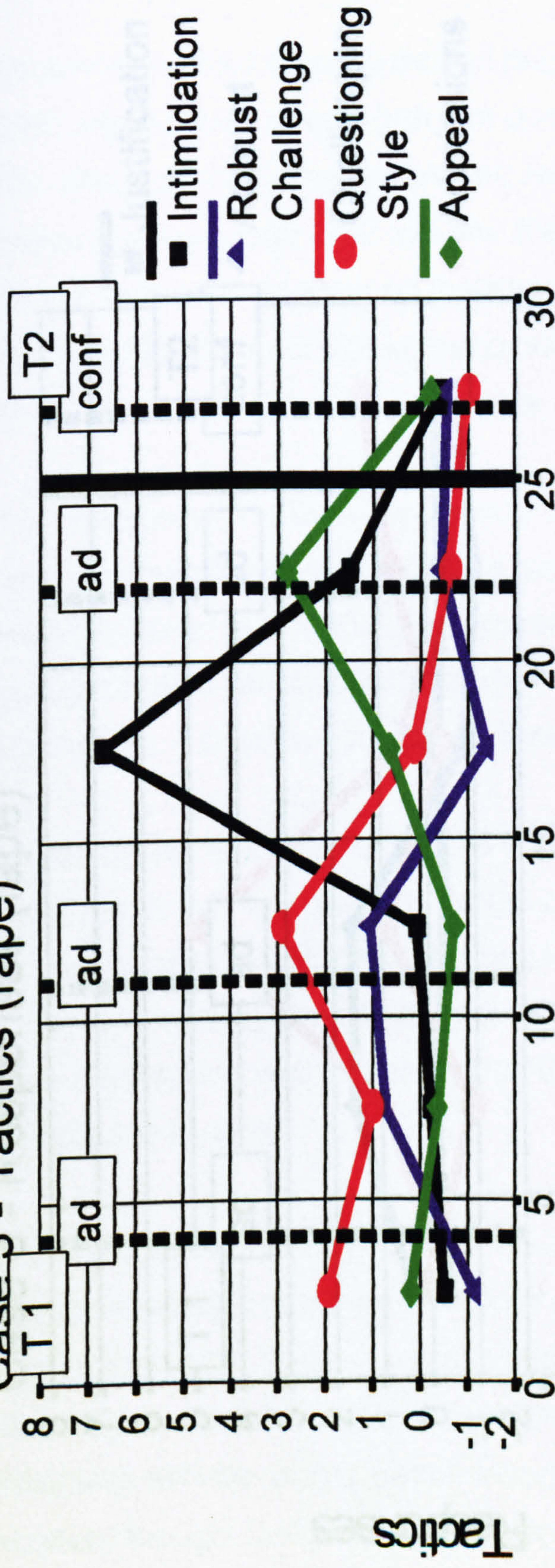
This was the shortest interview in the sample and the only case to involve a juvenile offender. The 15 year old youth had been detained for an allegation of rape and he was being questioned by two male officers, a detective sergeant and a detective constable. The latter assumed responsibility for the majority of the interview. There were two tapes of interview which commenced at 14.50 hrs and finished at 15.48 hours, although the actual time on tape was only 24 minutes. The year was 1992,

A legal adviser was present throughout, although his actual status was unknown. He was introduced on the tape as ' and the solicitor present is.....' . On occasions this interview degenerated into a heated argument with raised voices from the suspect and officers, but the only intervention made by the legal adviser was at the end of the first tape where he reminded his client of his entitlement to a private consultation. An AA was also present during the interviews but remained silent throughout. The officers did not remind the AA of her role under the Codes. Both AA and the legal adviser received a negative coding.

The assessment carried out on this suspect revealed that he had a Full Scale I. Q. of 73 and was functioning intellectually in the 'mental handicap' range. It was also noted that he readily gave in to leading (misleading) questions which was thought to be a reflection of his low intelligence and poor memory recall. Interestingly, he coped exceptionally well with interrogative pressure and from the clinical session he came across as assertive, self-assured and well able to stand up for himself. He was found not guilty at his trial.

After a confident start the officers did not react very well to the assertive responses from the juvenile suspect. This led to raised voices on both sides and at times the interview degenerated to a series of angry exchanges with numerous interruptions. This was not an open style of interviewing and did not appear to be following a prepared strategy, other than to introduce the victim's account. The suspect was given little opportunity to maintain his position although he did show that he was capable of challenging a number of implied inferences from the officers. Evaluation. Open - 1: Skilful - 2: Manipulative - 3: Forceful - 3.

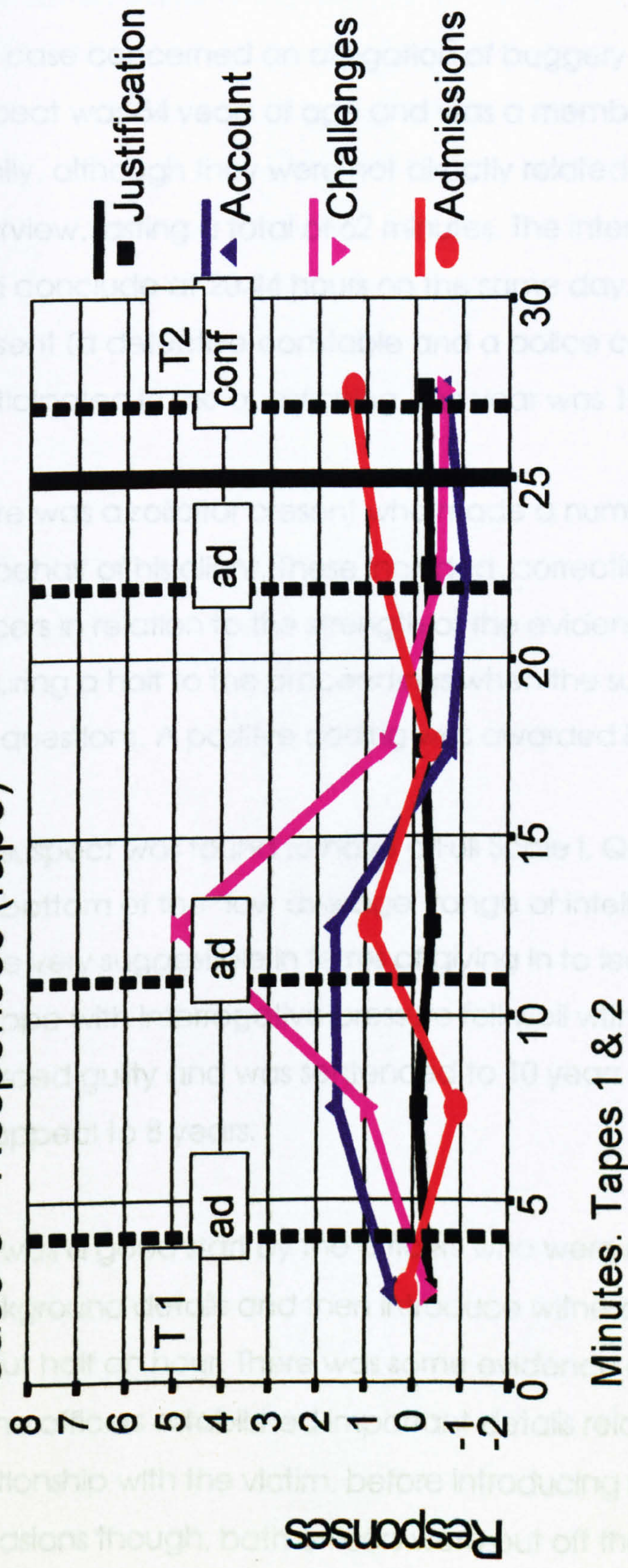
Case 3 - Tactics (rape)



Minutes. Tapes 1 & 2

The tactics Soft challenge and Manipulation have been removed. The opening ten minutes contain mainly closed questions. After this period there is a very steep increase in the use of Intimidation (to an *Extreme* level) which is shadowed to a lesser degree by the use of Appeal. The Intimidation took the form of emphasising the serious nature of the offence, increasing the suspect's anxiety and emphasising the distress and vulnerability of the victim ('. you are here under arrest for rape', '..not for jay walking across the road, for rape', and 'Do you realise how serious this is.' 'She's gone through hell since three o'clock this morning, ..she would not have done that if she had consented to having sex with you.' and ' She trusted you, didn't she? And you let her down didn't you?', 'You really owe it to her to tell the truth, don't you?'). This pressure is maintained and after a consultation with his legal adviser the suspect makes an immediate confession on his return.

Case 3 - Responses (rape)



Admissions are made by the suspect in relation to having sexual intercourse with the victim but the suspect maintains that such activity was with the consent of the victim. There is a **Marked** increase in Challenges from the suspect, who demonstrates that in the early stages he is able to assert himself ('No I hadn't been with her all night, I said I had been with her five minutes...', and 'No I didn't say I undone, she undone it' and 'You didn't hear me say that'). After 15 minutes (with the exception of a slight increase in Admissions) the graph suggests that there are few responses from the suspect. At this stage the officers were content to allow periods of silence to develop after they had asked their questions.

An introduction to Case 4.

This case concerned an allegation of buggery on an 11 year old boy. The suspect was 54 years of age and was a member of the victim's extended family, although they were not directly related. There were three tapes of interview, lasting a total of 62 minutes. The interviews started at 19.00 hours and conclude at 20.44 hours on the same day. There were two male officers present (a detective constable and a police constable) who both participated in the questioning. The year was 1992.

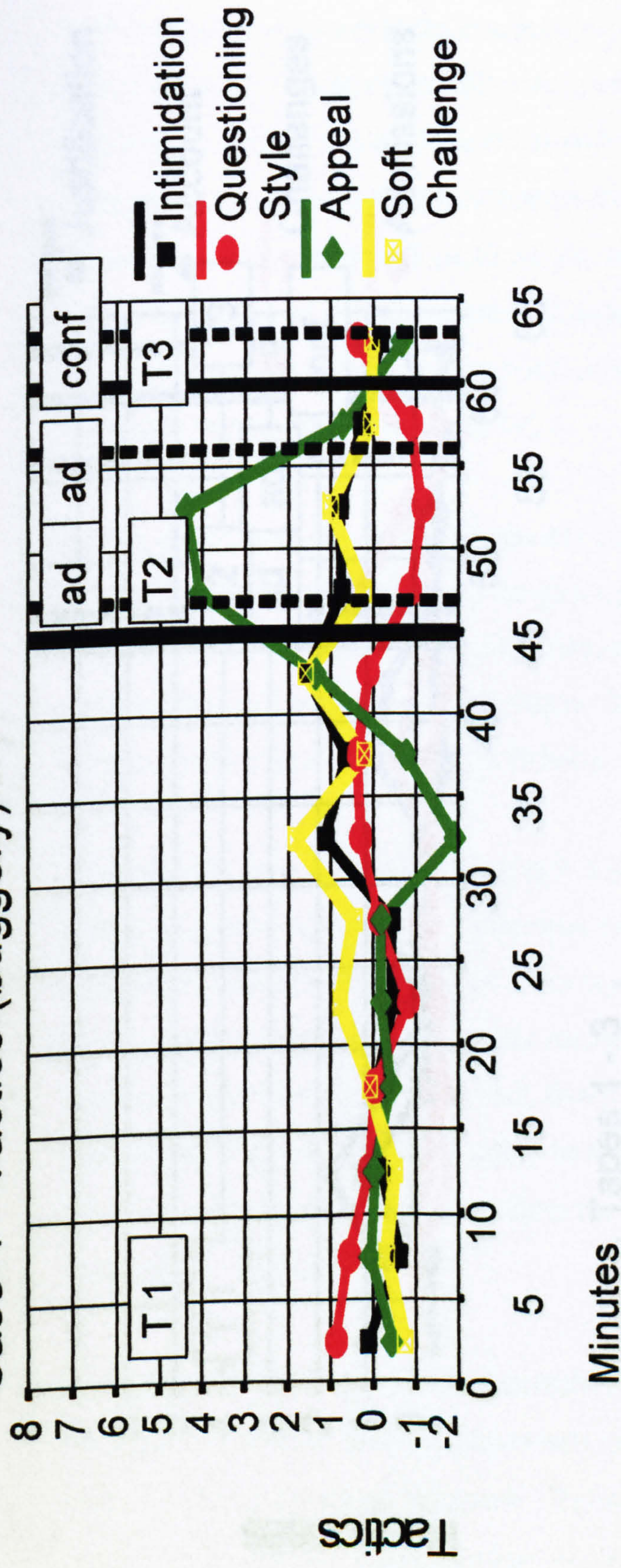
There was a solicitor present who made a number of excellent interventions on behalf of his client. These included, correcting assertions made by the officers in relation to the strength of the evidence, clarifying legal issues and securing a halt to the proceedings when the suspect was unable to answer the questions. A positive coding was awarded in this case. There was no AA.

This suspect was found to have a Full Scale I. Q. of 80, which placed him at the bottom of the 'low average' range of intellectual functioning. He proved to be very suggestible in terms of giving in to leading questions but his ability to cope with interrogative pressure fell well within normal limits. This suspect pleaded guilty and was sentenced to 10 years imprisonment. This was varied on appeal to 8 years.

This was a good start by the officers who were content to establish background details and then introduce witness (victim's) evidence after about half an hour. There was some evidence of planning and preparation as the officers established important details relating to the suspect's relationship with the victim, before introducing medical evidence. On occasions though, both officers were put off their stride by some pertinent

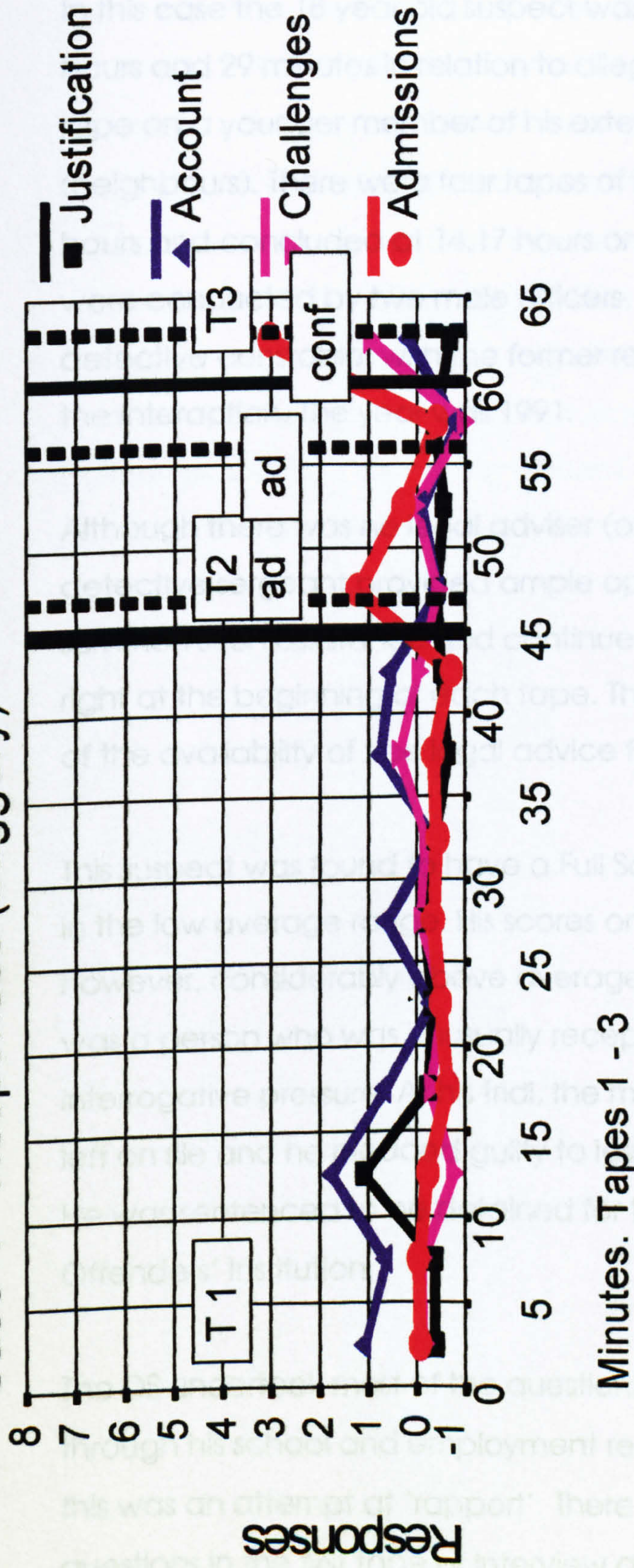
interventions by the solicitor present. Slow and patient coaxing of the suspect and considerable use of silence. Evaluation. Open - 3: Skilful - 3: Manipulative - 3: Forceful - 1.

Case 4 - Tactics (buggery)



Manipulation and Robust Challenge have been removed. The lack of obvious activity in the first thirty minutes correctly implies that this interview session started in an open manner with a Questioning Style composed of mainly closed questions designed to establish family details and connections with the victim. From the outset there is also a gradual increase in the use of Soft Challenge. This takes the form of evidence from the victim, and the officers are content to introduce this evidence in a mild and often low voice. Some attempts at shame reduction are also made 'Ok, we're all men of the world, we all understand what these things are, now I want to ask you some fairly personal questions about your history...'. After 30 minutes Appeal climbs from -2 and into the **marked** category. This included elements of reassurance and a large number of silences ('I'm asking you now to tell me the truth.' and also, ' As I understand it you are a man of previous good character, show that character by admitting to what you've done'). This continues into the second tape and a number of admissions are forthcoming. 'I appeal to your good character, your previous good character to tell us about it.' A 44 second silence follows, leading to admissions and confession.

Case 4 - Responses (buggery)



The suspect is able to provide an Account and some Justification early on but thereafter is unable to bring himself to admit, in detail, the offences. This is a subdued performance from the suspect which is reflected in the graph. The solicitor, who corrected a number of misleading statements from the officers, asks for an adjournment in T2, for his client to compose himself. On his return at the beginning of Tape 3 he makes a full confession.

An introduction to Case 5.

In this case the 18 year old suspect was interviewed for a total of 2 hours and 29 minutes in relation to allegations of indecent assault and rape on a younger member of his extended family and other children, (neighbours). There were four tapes of interview that started at 08.56 hours and concluded at 14.17 hours on the same day. The interviews were conducted by two male officers, a detective sergeant and a detective constable, with the former responsible for the vast majority of the interaction. The year was 1991.

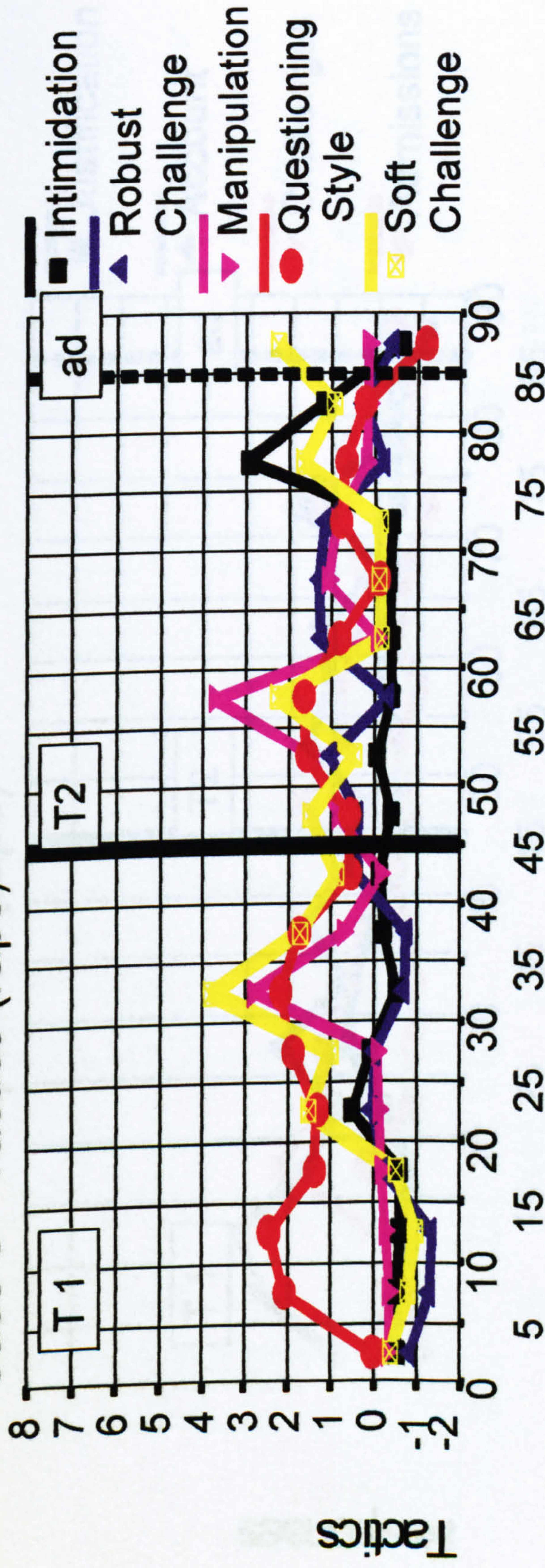
Although there was no legal adviser (or AA) present at any stage the detective sergeant provided ample opportunity for the suspect to summon such assistance and continued to remind the suspect of this right at the beginning of each tape. These were exemplary reminders of the availability of free legal advice from the detective sergeant.

This suspect was found to have a Full Scale I. Q. score of 85, which falls in the low average range. His scores on the suggestibility test were, however, considerably above average and outside normal limits. He was a person who was unusually receptive to suggestion and interrogative pressure. At his trial, the more serious charges (rape) were left on file and he pleaded guilty to lesser offences (indecent assault). He was sentenced to be detained for three years at a Young Offenders' Institution.

The DS undertook most of the questioning and took the suspect through his school and employment record. It is debatable whether this was an attempt at 'rapport'. There were a vast number of leading questions in the first tape of interview and it was some time before any

strategy or tactics emerged. These tended to rely on the victims' statements and various themes or scenarios were advanced, especially from the DS. There was another aspect of this officer's communication skills that warrant debate. This officer spoke in a quiet, but very pedestrian and almost soporific, monotone. The delivery rarely fluctuated in volume and when allied to his other noticeable attribute, that of persistence, the present author detected an uncomfortable, almost 'pneumatic' effect on the listener, whilst attempting to analyse the tapes (in other words, not only did he sound boring, but he went on and on, relentlessly). In such circumstances this 'technique' may also have impacted on the young suspect. Evaluation. Open - 2: Skilful - 2: Manipulative - 4: Forceful - 3.

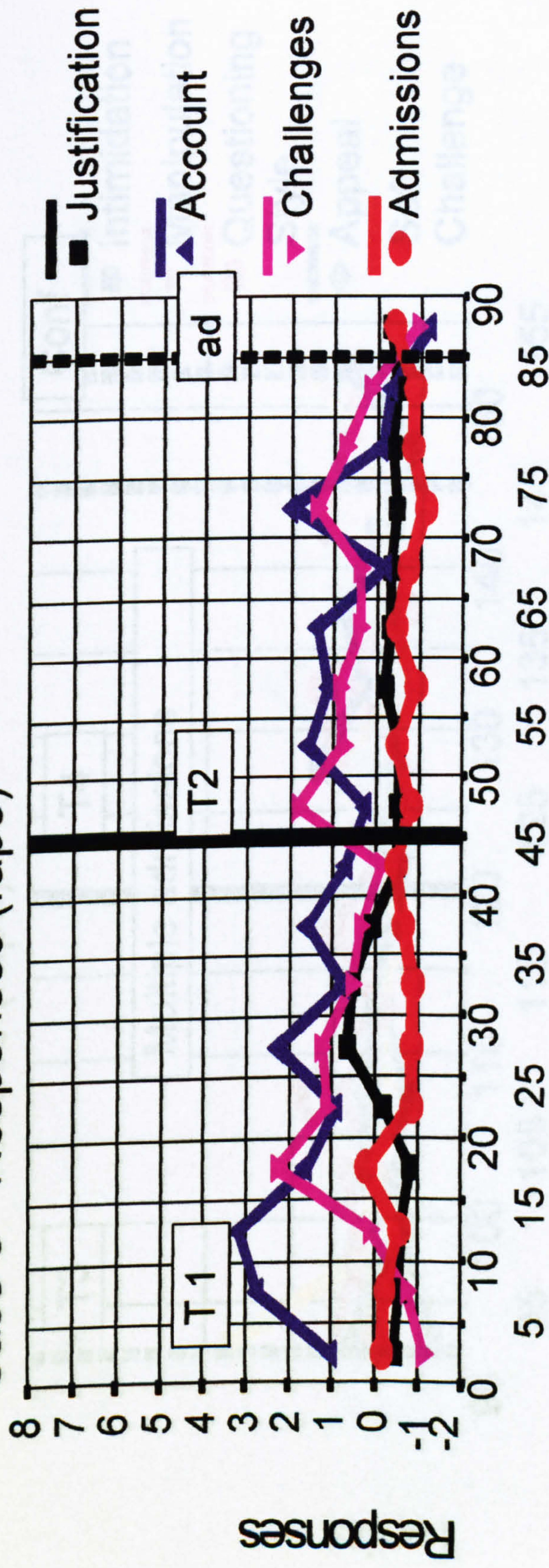
Case 5 - Tactics (rape)



Minutes: Tapes 1 & 2

Appeal has been removed. The immediate impact of Questioning Style relates to a heavy reliance on closed questions (and very few open questions). This reflects the manner in which the officer controlled and 'drove' the interview. The second half of T1 saw the introduction of witness evidence - Soft Challenge, to a **Marked** degree, and to a lesser extent Manipulation, in the form of minimisation - 'Did you ever sort of um pull her clothes up and try and tickle her back or something like that? Just playing, just in play or anything like that? In T2, Manipulation reaches a **Marked** level and includes a number of suggested scenarios. There was also evidence of the **Moderate** use of Intimidation and Soft Challenge - 'What do you think your parents are gonna say gonna think? your situation is going to be very fraught isn't it' and '... they're quite serious allegations why should she make them up? Your not just man enough to stand up and say you now alright sorry I did it, are ya? ' You see you'll put her through possibly the ordeal of standing in the witness box would you?... If you done it you should be saying you did shouldn't you? Hey? Shouldn't ya? Did you do it? Course you did didn't ya? Um? Yeah you did, didn't ya?' An admission follows this intimidating sequence at the end of T2.

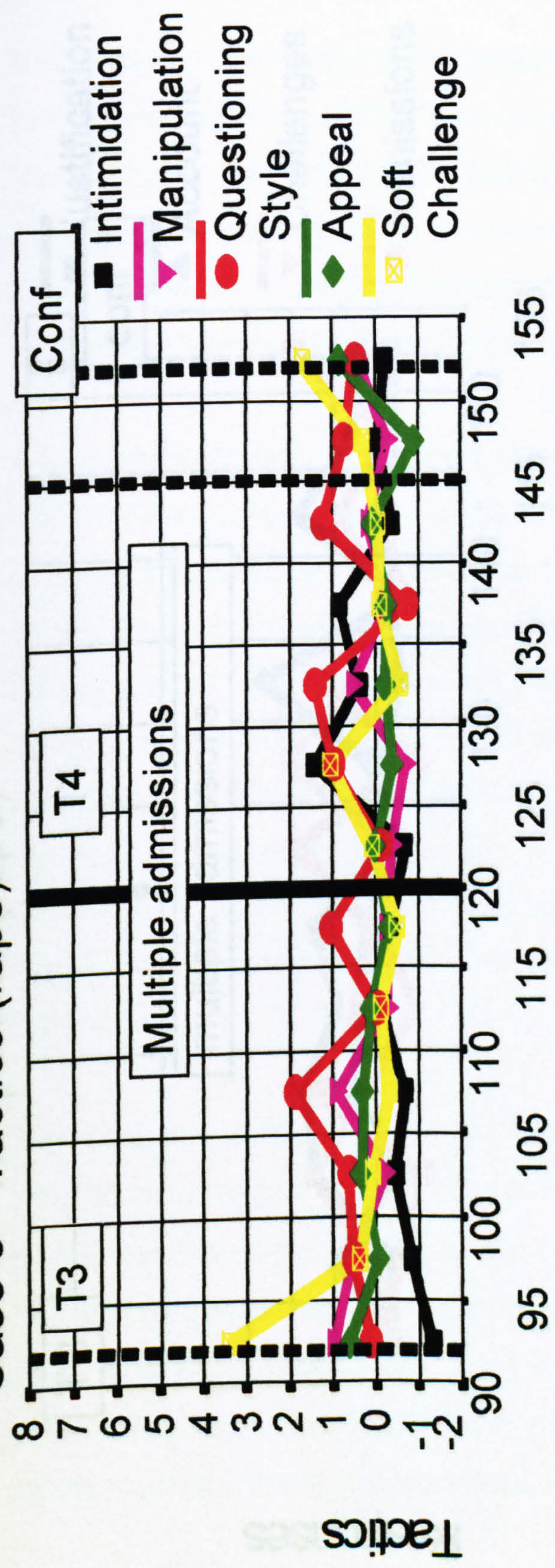
Case 5 - Responses (rape)



Minutes: Tapes 1 & 2

The suspect is able to provide an Account early on, which relates to family history. His Challenges, throughout both tapes are an attempt to refute the assertions and inferences from the officers - '.. you put your hand inside her pants and touched her private parts.', Answer 'No. I'm not that stupid'. Towards the end of T2 the suspect begins to cry as the pressure is increased from the officer and there are a number of long periods of silence, leading to an admission and then tape is switched off. There follows a break of two minutes before Tape 3 commences.

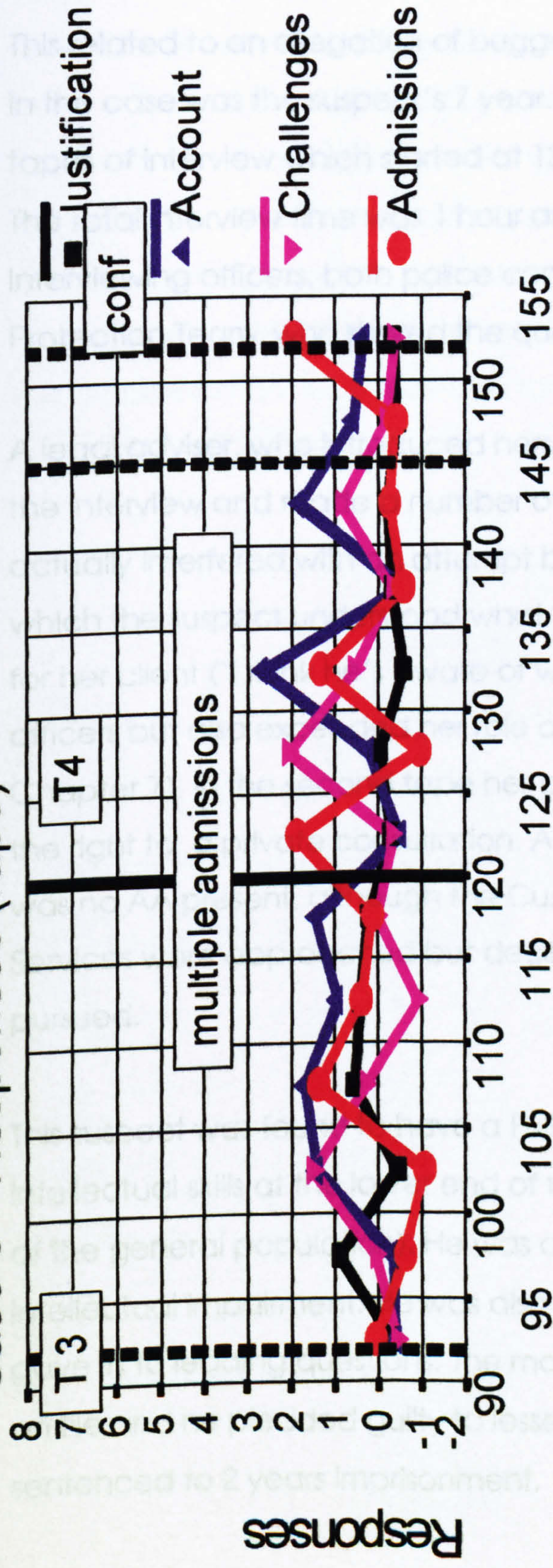
Case 5 - Tactics (rape)



Minutes: Tapes 3 & 4

Robust Challenge has been removed. The start of T 3 continues to be dominated with evidence from the victim (Soft Challenge at a **Marked** level) and the use of closed questions. As the interview has taken nearly 2 hours the officer decides to call a halt and allow refreshments and an opportunity for the suspect to '.. have a think about [the allegations]'. T 4 starts over two and a half hours later. The tactic Intimidation joins Questioning Style and Soft Challenge to a **Moderate** level, in the opening ten minutes - 'What you've done to her shouldn't have taken place should it? Therefore why should she say something more serious has taken place?'. The suspect can be heard sniffing in T 4 whilst still denying the full allegations. After a long Appeal from the officer, he admits that what the victim has said is correct and confesses.

Case 5 - Responses (rape)



Minutes. Tapes 3 & 4

The response chart continues to show the suspect providing an Account, which includes agreeing with what the officers are saying in both T3 and T4. There are also a large number of admissions - 'I just touched her, I knew I was doing wrong ...'. Justification is also present in T3, which includes blaming the victim - 'I mean she's, she'll try and come on to me you know slowly'. Some Challenges, in the form of denials are also evident and account for the fluctuating picture that has emerged in T4 - '.. would she have seen your penis then? Answer 'No', 'She says she did.' Answer, 'No'. The suspect is still reluctant to agree with the victim's version of events, i.e., something more serious has happened - '.. she's talking about something a little bit more serious than you're talking about'. The suspect can be heard sniffing towards the end of T4 and then provides a confession.

An introduction to Case 6.

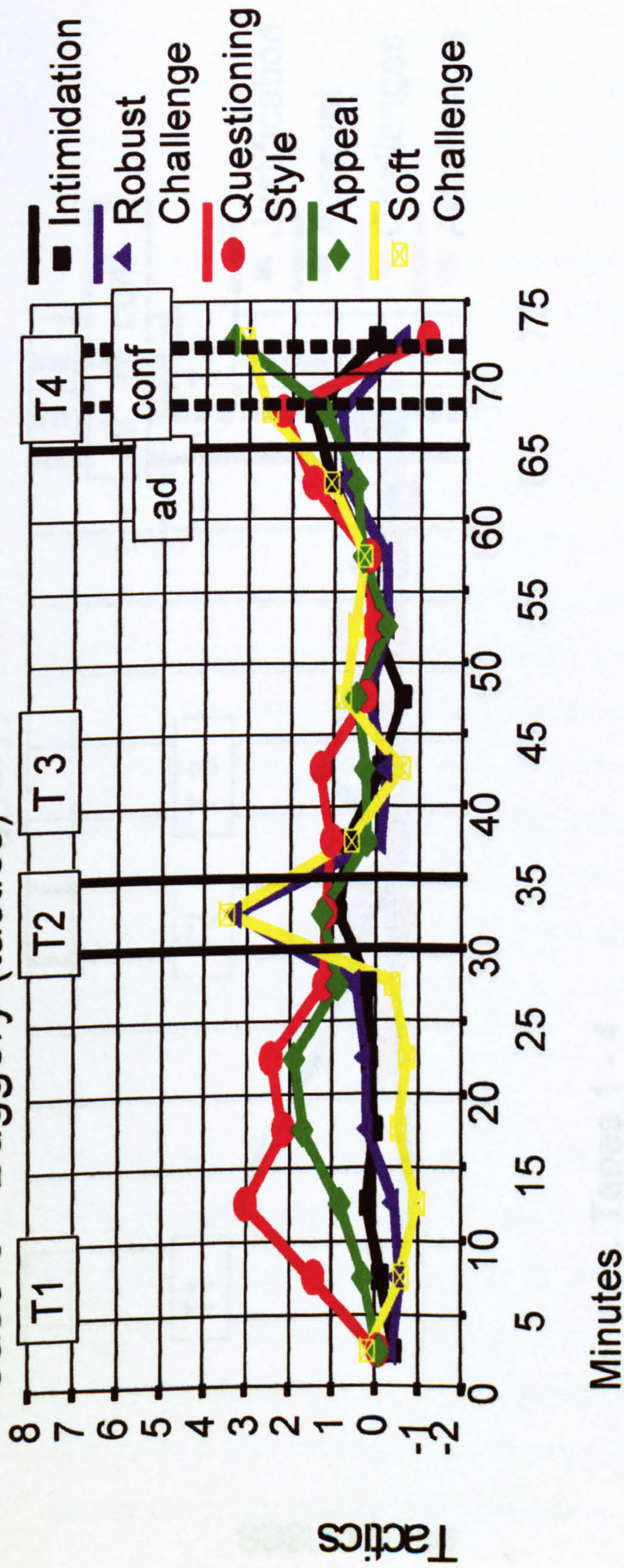
This related to an allegation of buggery against a 32 year old man. The victim in the case was the suspect's 7 year old nephew. There were four relevant tapes of interview which started at 13.50 hours and finished at 15.28 hours. The total interview time was 1 hour and 14 minutes. There were two male interviewing officers, both police constables attached to the local Child Protection Team, who shared the questioning. The year was 1992.

A legal adviser, who introduced herself as a clerk, was present throughout the interview and made a number of interventions. Her first contribution actually interfered with an attempt by the officers to establish the extent to which the suspect understood what the term 'buggery' meant. In answering for her client ('I think he's aware of what it means') she not only frustrated the officers but also exceeded her role as envisaged under the Codes (see Chapter 7). In the second tape her contribution was to remind her client of the right to a private consultation. A negative coding was awarded. There was no AA present, although the Custody Record indicates that the Social Services were approached but declined to attend and the matter was not pursued.

This suspect was found to have a Full Scale I. Q. of 73 which places his intellectual skills at the lower end of the borderline range (bottom 4 per cent of the general population). He was considered to suffer from a significant intellectual impairment. He was also abnormally suggestible in that he readily gave in to leading questions. The more serious charges (buggery) were left on file and he pleaded guilty to lesser offences (indecent assault). He was sentenced to 2 years imprisonment.

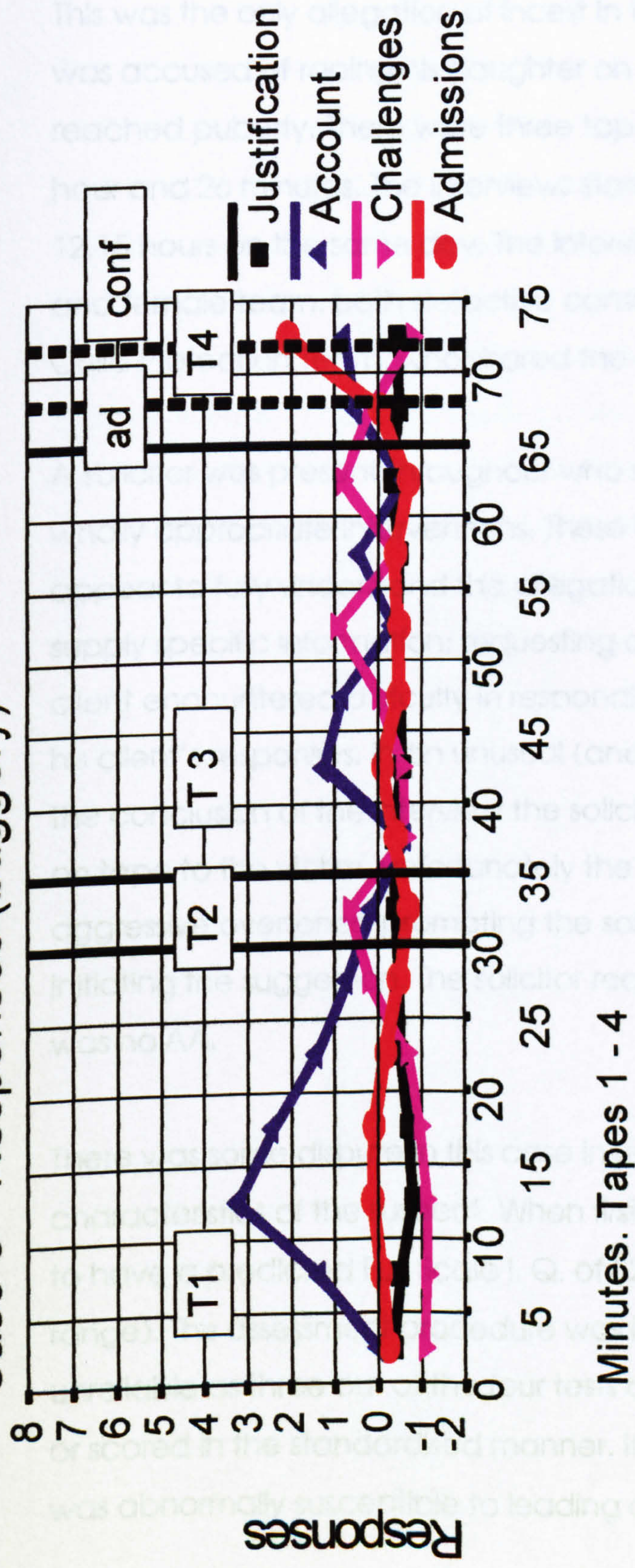
It was not an open style of interviewing and the officers did not obviously adopt any particular strategy. Instead they utilised a number of multiple questions or assertions, many of which were (mis)leading in nature and they often only succeeded in confusing the listener. T2 was only 5 minutes long, but it was very forceful and challenging. The second officer took over the questioning in T3 and immediately produced a confusing, multiple question. It was not a skilful interview, no obvious strategy emerged and the questioning was often forceful and confrontational with a large number of interruptions. The officers did not work well as a team. Evaluation. Open - 1: Skilful - 2: Manipulative - 2: Forceful - 4.

Case 6 - Buggery (tactics)



Manipulation has been removed. Visually this graph is very informative, particularly as it allows us to see the entire four tapes of interview in one spread. Both Questioning Style and Appeal are prominent in T1 at a *Moderate* level. In T2 there is a distinct rise in the use of Robust and Soft Challenges, an unusual combination in this sample (this is made up of challenges re witness evidence, lies, interruptions, use of others and appeal). The Questioning Style of the officers was a reliance on closed and leading questions but often presented in a multiple format - 'OK and that's when he was living with you. How often would that happen do you reckon? Either because of his bedwetting or because he'd be lonely. How often? How many times a week would [he] sleep with you? This is while he was living with you?': These multiple questions (without allowing a response) were a feature of this case. Towards the end of T3 an increase in all the tactics is discernible, especially Soft Challenge and Appeal, which reached a *Marked* level in T4 and a confession is made.

Case 6 - Responses (buggery)



The dominant response in the first tape is essentially where the suspect is agreeing with the officers and providing an Account of family and domestic details. In T2 there would only appear to be a 'token' Challenge from the suspect against both of the Challenging tactics. Initially in T3, the suspect attempted to make 'no comment' responses but this does not last. After periods of silence the suspect stammers, 'I'm a, I'm a, I'm a, I'm ashamed.' This leads to a full confession thereafter.

An introduction to Case 7.

This was the only allegation of incest in the sample. The father, aged 55, was accused of raping his daughter on a number of occasions until she reached puberty. There were three tapes of interview lasting a total of 1 hour and 26 minutes. The interviews started at 10.08 hours and finished at 12.15 hours on the same day. The interviews were conducted by a male and female team, both detective constables attached to the local Child Protection Team, who shared the questioning. The year was 1994.

A solicitor was present throughout who made a number of timely and wholly appropriate interventions. These included: where his client did not appear to fully understand the allegations; where the officers failed to supply specific information; requesting a consultation period when his client encountered difficulty in responding, and clarifying the details of his client's responses. In an unusual (and unrehearsed) development at the conclusion of the interview the solicitor invited his client to apologise on tape to the victim, unfortunately the suspect raised his fist and made aggressive overtones, prompting the solicitor to express regret at initiating the suggestion. The solicitor received a positive coding. There was no AA.

There was some dispute in this case in relation to the psychological characteristics of the suspect. When first assessed the suspect was found to have a predicted Full Scale I. Q. of 82 (low average Intelligence range). This assessment procedure was later criticised as inaccurate and unreliable as three out of the four tests administered were not recorded or scored in the standardised manner. It was accepted that the suspect was abnormally susceptible to leading questions and interrogative

pressure. He pleaded not guilty at court (2 charges of incest) but was found guilty and sentenced to 6.5 years in prison.

The interviews were conducted in an open and unrushed manner with both officers displaying good listening skills and some shame reduction was evident in the opening sequence. Challenges were introduced towards the close of the first interview and continued throughout the second tape. These tended to be in the form of evidence from the victim. Planning and preparation was poor at the start of T2 with delays experienced while papers were located. This interview did not require a forceful approach and indeed the second tape is a classic example of the softer, more sensitive approach recommended in the literature, for this type of offence. Evaluation. Open - 2: Skilful - 2: Manipulative - 2: Forceful - 2.

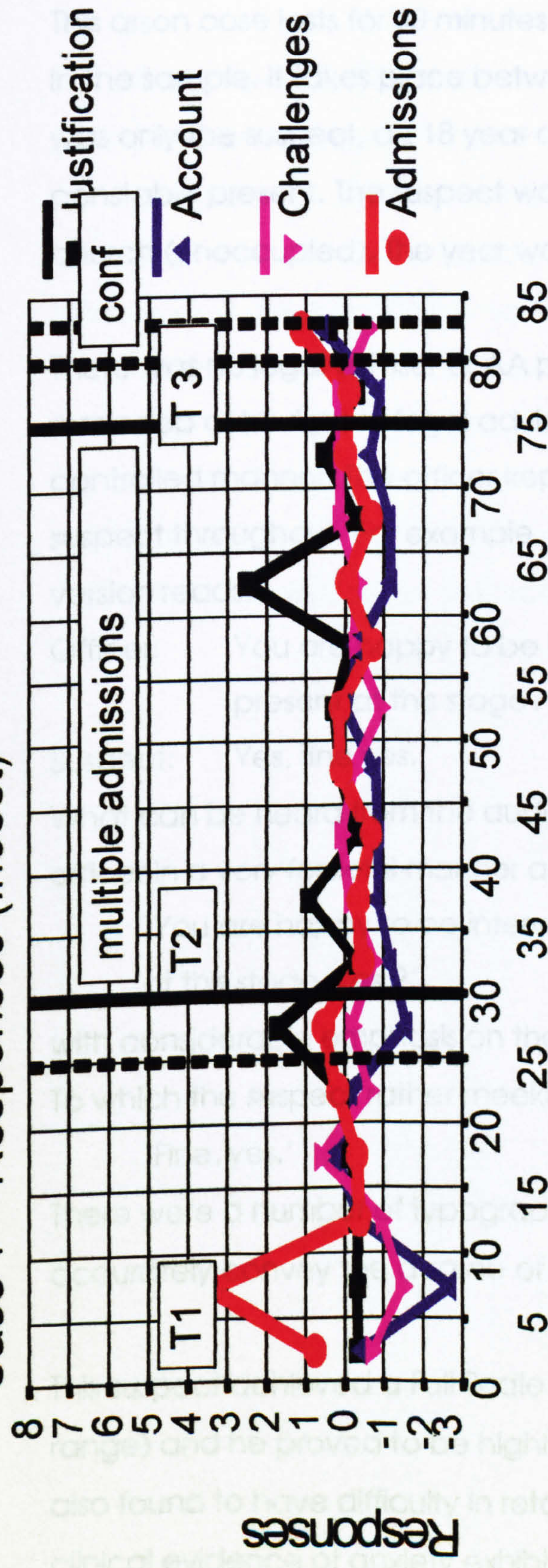
Case 7 -Tactics (incest)



Minutes: Tapes 1, 2 & 3

This particular tactics graph is very illuminating. First of all the two overbearing tactics, Intimidation and Robust Challenge have been removed. The most prolific tactic is clearly Soft Challenge, which reaches *Extreme* proportions. This is a striking example of the type of tactics recommended for use in cases of this nature. There are no obvious peaks immediately before an admission, rather this outcome was achieved as a result of the sustained effect of this one factor. The following are examples of typical Soft Challenge tactics where passages from statements would be read out, generating questions - 'Can you remember saying that you wouldn't hurt her and that it would be all right? Can you remember reassuring her?', '[she] goes into quite some detail don't she about all the things that she can remember?'.

Case 7 - Responses (incest)



Minutes: Tapes 1 - 3

The Admission factor is evident as the main response in T1 (at a **Marked** level) and this includes where the suspect has been allowed to provide a free narrative account of events. Towards the end of T1 and through T2 (reaching a **Moderate** level) there is evidence of the use of Justification by the suspect. The suspect starts to apportion 'blame' on his young daughter. Included in this response factor are the following; - '... she come out of the toilet stark naked and she said it's alright she said, I've seen you and she forced me hand on to her, down there and I pulled away...'; '... she put her hand out and her hand landed on top of my privates... I was a little bit aroused...'; 'She forced my hand on to her vagina and one hand on to her breast and I pulled away...'; and '... she was more or less asking me to touch her, do something'. Despite these attempts to apportion blame on the victim, the suspect makes a number of admissions before making a full confession in T3.

An introduction to Case 9.

This arson case lasts for 30 minutes and was one of the briefest interviews in the sample. It takes place between 12.23 and 12.58 hours and there was only the suspect, an 18 year old youth, and one male detective constable present. The suspect was accused of a number of fires at a church (unoccupied). The year was 1991.

There was no legal adviser or AA present. Although the suspect was reminded of his right to legal advice, the officer did so in a curt and very controlled manner. The officer kept the reminder very brief and led the suspect throughout. For example, at the very beginning, the transcript version reads,

Officer: You are happy to be interviewed without a solicitor being present at this stage?

Suspect: Yes, fine yes.

What can be heard from the audio tape, however, suggests that the officer in a very forceful manner actually said,

‘You are happy to be interviewed without a solicitor being present at this stage, yes ?’,

with considerable emphasis on the final ‘yes’.

To which the suspect rather meekly replied,

‘Fine, yes.’

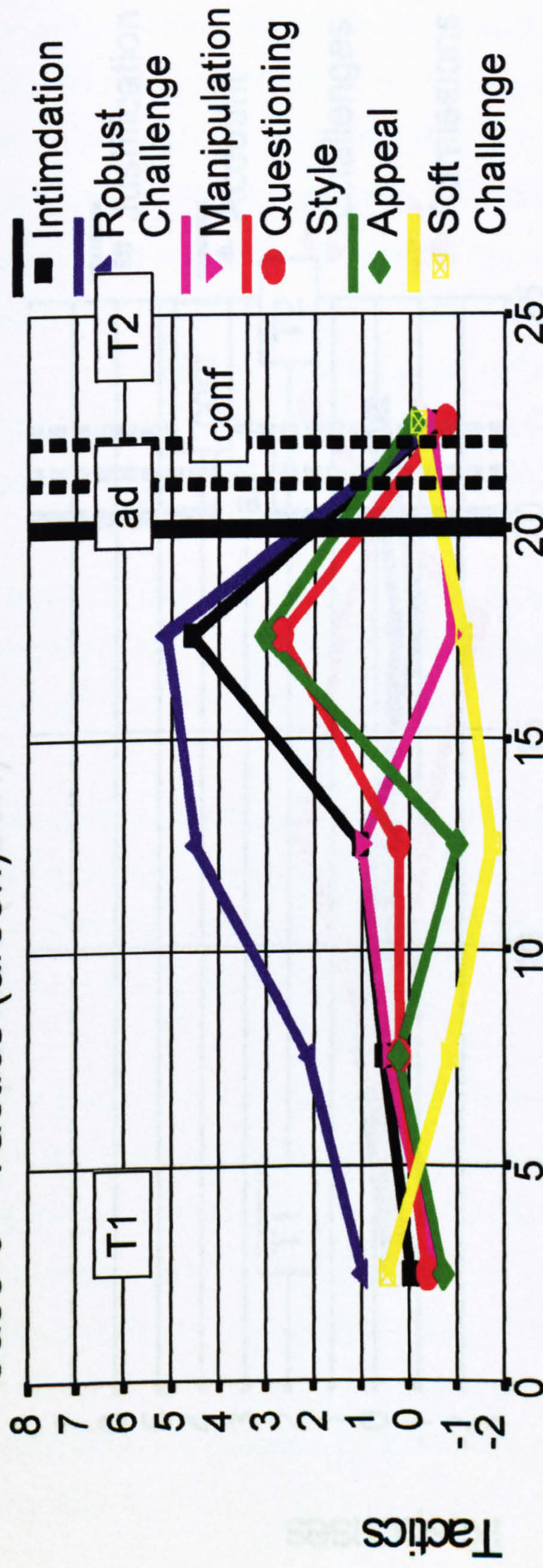
There were a number of typographical errors in this case, which failed to accurately convey the degree of control exercised by the officer.

This suspect achieved a Full Scale I. Q. score of 82 (in the low average range) and he proved to be highly suggestible when tested. He was also found to have difficulty in retaining information and there was some clinical evidence of anxiety exhibited during the test session. At the trial,

the interview was ruled inadmissible and there was no other evidence against the suspect, he was found not guilty.

From the outset this officer drove the suspect and maintained a pressurised atmosphere throughout this brief interview. He was domineering and used multiple questions, multiple assertions and failed to allow the suspect an unhurried opportunity to respond. By the end of the first tape the officer had made use of all six factors within a space of twenty minutes. At this stage, the suspect broke down and started to cry (although this is not noted on the transcript) and the officer stopped the tape. After a five minute break, the interview resumed and the suspect made an admission and a confession within minutes. Evaluation. Open - 1: Skilful - 2: Manipulative - 4: Forceful - 4.

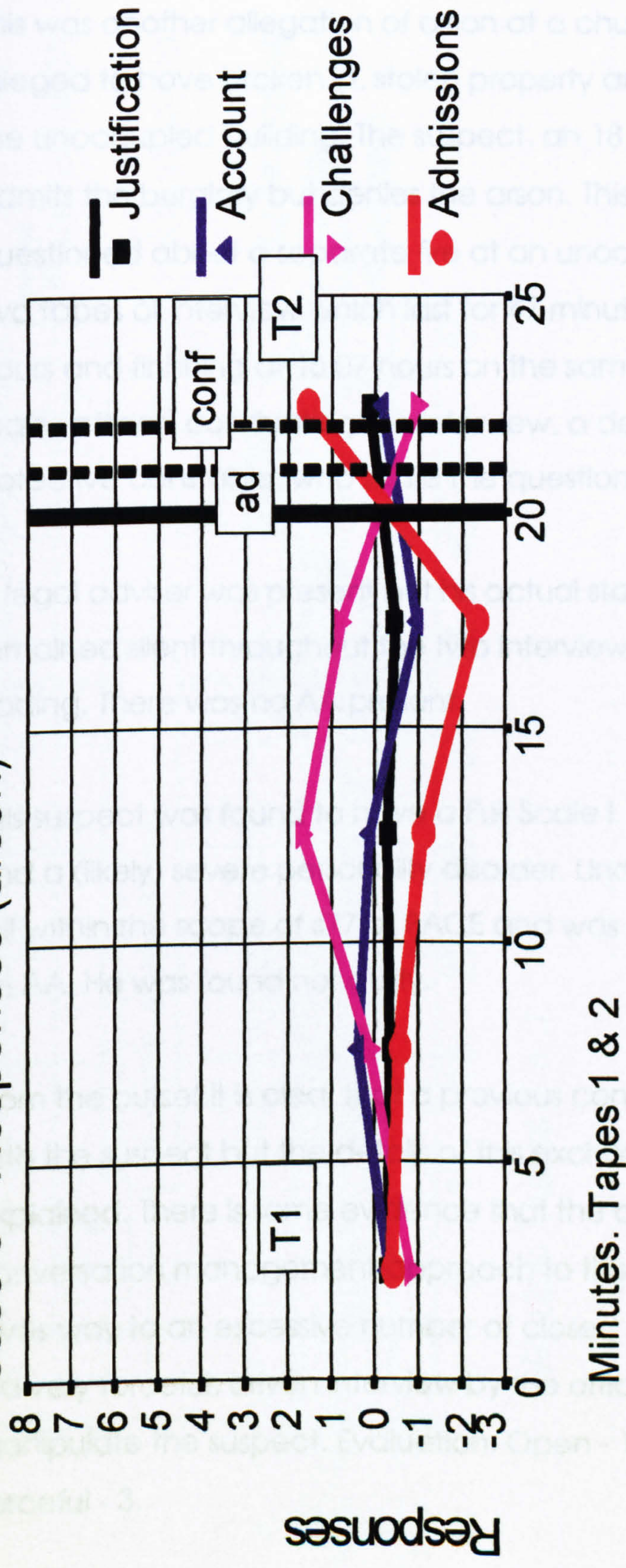
Case 9 - Tactics (arson)



Minutes. Tapes 1 & 2

From the outset there is an undisputed increase in the use of Robust Challenge, to an *Extreme* level. This is accompanied by an increase in Intimidation (*Marked* level) and an increase in Appeal and Questioning Style to a *Moderate* level. The Robust Challenge tactics included the officer repeatedly interrupting the suspect and often dismissing his replies, there were 52 'continual dispute' tactics from the officer in 22 minutes. The Intimidation factor included introducing evidence from, and 'using', the suspect's girlfriend. This includes, maximisation and a blatant manipulation of detail, where he distorts what the suspect actually said (in relation to not carrying matches) to his own advantage. He implies that the suspect provided the suggestion that the fire was caused by matches, which was not the case. The suspect begins to cry and there is a five minute break. An admission and confession follow soon after the re-start. Given its short duration, this was a very oppressive interview.

Case 9 - Responses (arson)



In comparison to the tactics chart, there would appear to be little happening in terms of responses from the suspect. There is evidence of some token Challenges, reaching a *Moderate* level after ten minutes, but these consisted mainly of denials. This graph accurately reflects the minor role and contribution of the suspect when compared alongside the dominant and domineering nature of the interviewing officer. It was noticeable that when the admission was made the suspect accepted the main theme that the officer had been pursuing throughout the interview. According to the suspect, 'I had a, I had a problem... you know I admit that I've done something wrong'.

An introduction to Case 10.

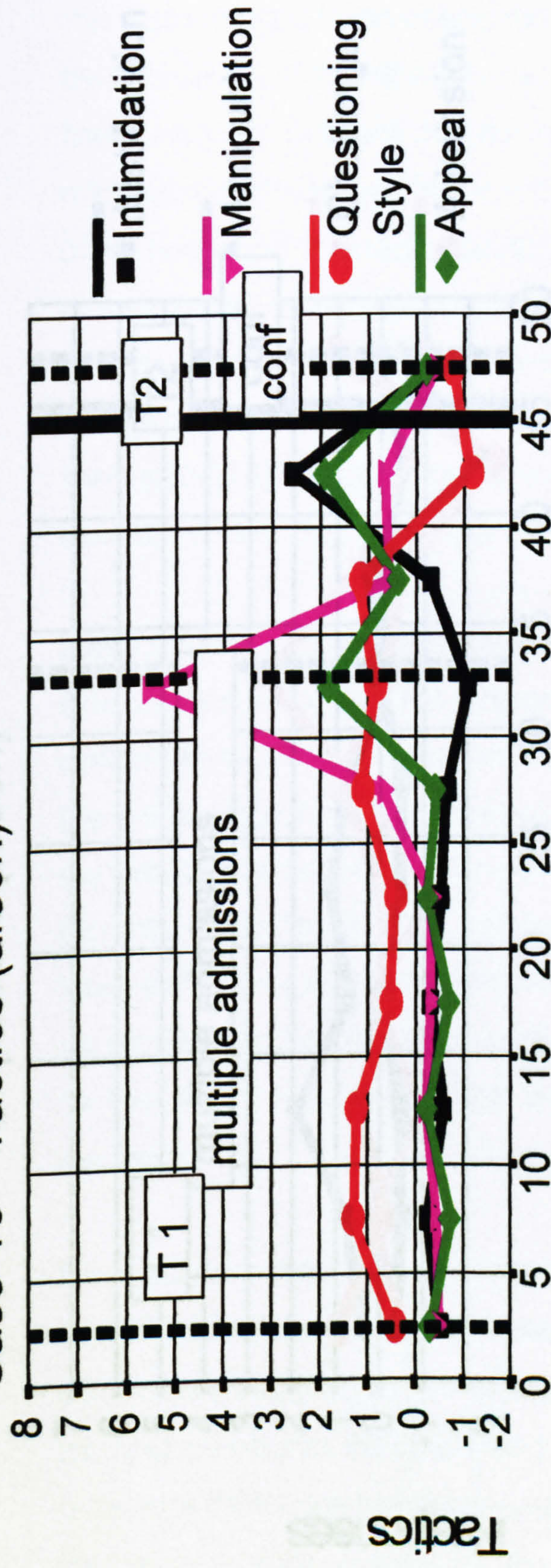
This was another allegation of arson at a church, where the suspect was alleged to have broken in, stolen property and then set fire to part of the unoccupied building. The suspect, an 18 year old youth, readily admits the burglary but denies the arson. This suspect was also questioned about a separate fire at an unoccupied house. There were two tapes of interview which last for 47 minutes, commencing at 14.19 hours and finishing at 15.07 hours on the same day. There were two males officers conducting the interview, a detective sergeant and a detective constable, who share the questioning. The year was 1993.

A legal adviser was present but his actual status was unknown. He remained silent throughout the two interviews and received a negative coding. There was no AA present.

This suspect was found to have a Full Scale I. Q. of 67, a poor memory and a (likely) severe personality disorder. Under these circumstances he fell within the scope of s77 of PACE and was entitled to the presence of an AA. He was found not guilty.

From the outset it is clear that a previous conversation has taken place with the suspect but the details of this exchange are never fully explained. There is some evidence that the officers attempt to employ a conversation management approach to this interview but this quickly gives way to an excessive number of closed and leading questions. This is a very forceful, driven interview by the officers, who lead and manipulate the suspect. Evaluation. Open - 1: Skilful - 2: Manipulative - 4: Forceful - 3.

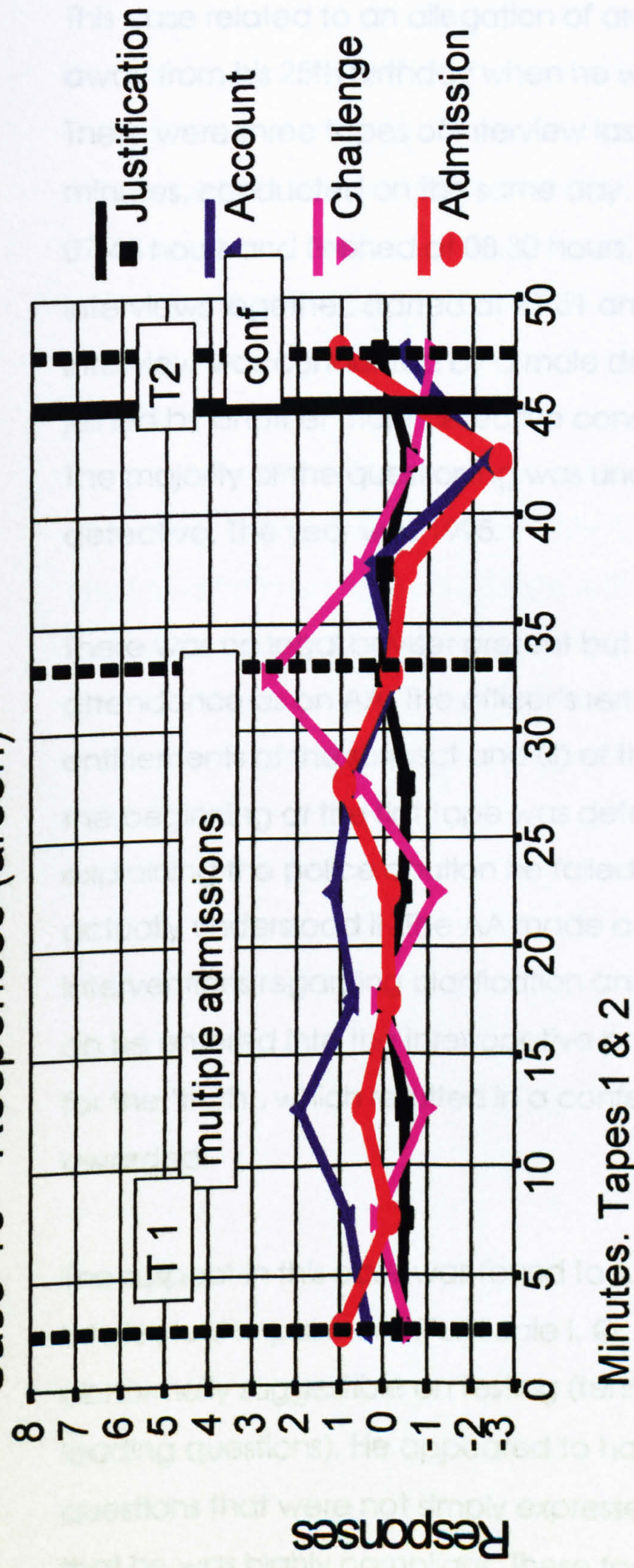
Case 10 - Tactics (arson)



Minutes. Tapes 1 & 2

The two Challenge tactics, Soft and Robust have been removed. For the first twenty five minutes the interviewing tactics are essentially Questioning Style (closed questions). After this there is a considerable increase in the use of Manipulation to an *Extreme* level, with a *Moderate* increase in Appeal. The officers introduce a number of themes. One relating to other youths - Officer, 'Were you annoyed with them?' A 'I were a bit peed off when they were threatening me', Officer, 'I think I would be as well..... did you feel like getting your own back now?': The theme then changed to include some minimisation, 'It's a derelict house int it?', 'It's just a derelict house in it, whether a bit of fun or whatever,..... you alighted (sic) some papers in there before you left'. Towards the end of the first tape the officers dispense with Manipulation and resort to Intimidation and there is some evidence of the use of Appeal (both to a *Marked* degree). In particular the officers emphasise how dangerous and serious fires are.

Case 10 - Responses (arson)



Admissions are made early on in relation to the burglary offence and there is *Moderate* level of Account provided by the suspect. The graph indicates a distinct change from the suspect in the fifth segment as he introduces a number of Challenges with denials, which appears to coincide with increased use of the Manipulation tactic. The conversation has moved from the fire at the church to the house fire. In his admissions, the suspect accepts the themes put forward by the officers. For example, 'Yeh 'cos I had to get me own back on them kids for threatening me.'

An introduction to Case 11.

This case related to an allegation of arson. The suspect was one day away from his 25th birthday when he was interviewed by the police. There were three tapes of interview lasting a total of 1 hour and 34 minutes, conducted on the same day. The first interview started at 07.45 hours and finished at 08.30 hours, whilst the second and third interviews together, started at 21.51 and finished at 22.42 hours. The first interview was conducted by a male detective constable who was joined by another male detective constable for the later interviews. The majority of the questioning was undertaken by the original detective. The year was 1995.

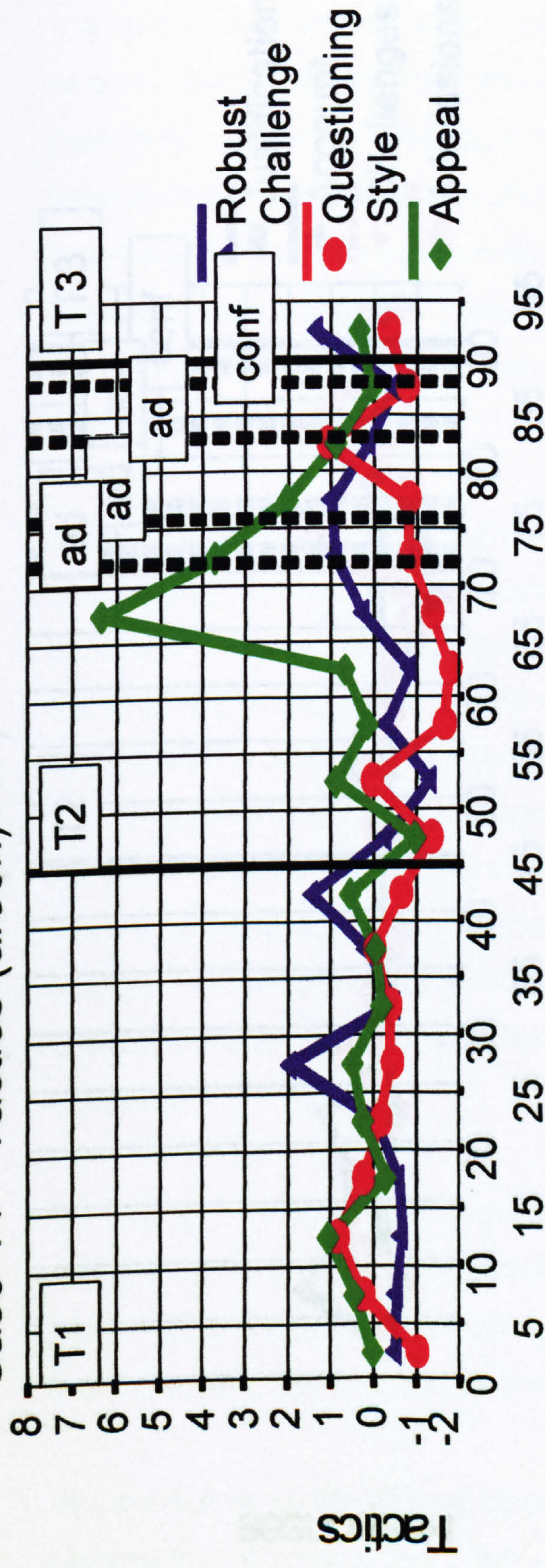
There was no legal adviser present but the suspect's father was in attendance as an AA. The officer's reminder of (i) the legal entitlements of the suspect and (ii) of the expected role of the AA, at the beginning of the first tape was detailed and lengthy, but when explaining the police caution he failed to test whether the suspect actually understood it. The AA made a number of first class interventions regarding clarification and procedural enquiries, but later on he entered into the interrogative process and appealed to his son for the 'truth', which resulted in a confession. A negative coding was awarded.

The suspect in this case was found to suffer from a significant intellectual impairment (Full Scale I. Q. score of 69) and he proved abnormally suggestible on testing (tendency to give in readily to leading questions). He appeared to have problems understanding questions that were not simply expressed and there were indications that he was highly compliant. These factors may be a reflection of his

low intelligence, eagerness to please and tendency to avoid conflict or confrontation with others. He was found not guilty at court.

The first tape was essentially a preliminary interview to establish associates, movements and stories for the relevant time. The single officer appeared confident and did not make use of forceful or confrontational tactics. A most interesting aspect of this case was the behaviour and actions of the AA. In T1, the father adopted a facilitative role and all his interventions were wholly appropriate, until an episode towards the end when he identified a lie and challenged his son. After the officer had spoken to other accomplices the remaining interviews were conducted. Overall the interviewing tactics changed from an open and quite skilful introduction to a manipulative and at times coercive interview. In particular the officer brought the AA into the process, which precipitated a number of admissions and finally a confession. Evaluation. Open - 2: Skilful - 2: Manipulative - 3: Forceful - 4.

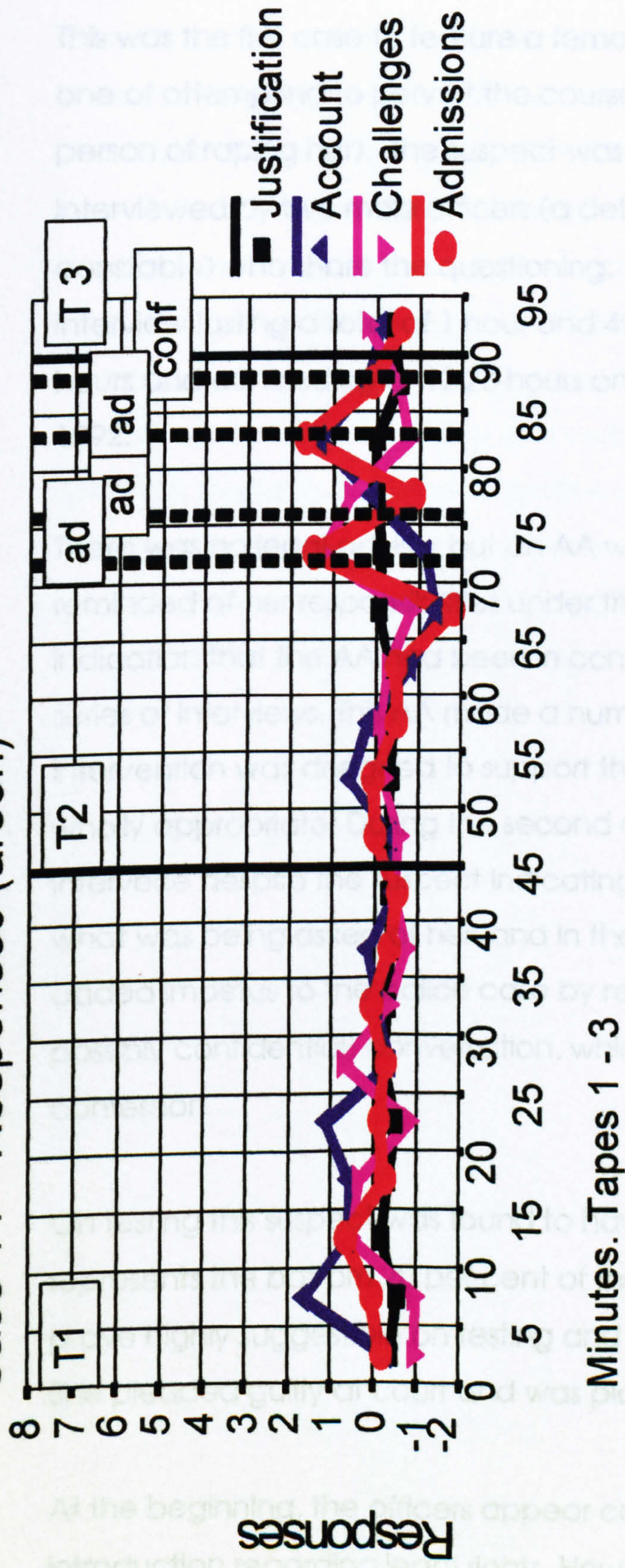
Case 11 - Tactics (arson)



Minutes. Tapes 1 - 3

Intimidation, Manipulation and Soft Challenge have been removed. This case contains an excellent example of the use of the tactic Appeal. In T1 the main tactic is Robust Challenge (*Moderate* level) although both Questioning Style and Appeal are employed during the opening sequence. The first challenge peak relates to the officer challenging (as not believable) the suspect's answers. The second relates to the AA (who checks the suspect is actually able to understand matters) and then assumes the investigator's role '... and you said you didn't know and that wasn't true, why didn't you tell the officer who they were...'. In T2 there is a distinct separation of the three tactics with Appeal clearly in the ascendancy - reaching the *Extreme* level. The officers have spoken to a number of other suspects and witnesses and put this information to the suspect. Their appeals are lengthy and contain a variety of tactics. They make every attempt to reassure the suspect and the 1st officer feeds the father into the conversation, who then continues to appeal for the truth. Admissions are made and then a confession.

Case 11 - Responses (arson)



The response chart indicates that initially the suspect is able to provide an Account, or agree to points raised by the officer. Thereafter, the responses congregate closely to the mean until midway through the second tape. At this stage the AA joins the officers in asking questions and the initial Challenges give way to an Account and to Admissions.

An introduction to Case 12.

This was the first case to feature a female suspect. The allegation was one of attempting to pervert the course of justice (falsely accusing a person of raping her). The suspect was a 26 year old woman who was interviewed by two male officers (a detective sergeant and a detective constable) who share the questioning. There were four tapes of interview lasting a total of 1 hour and 49 minutes, commencing at 10.25 hours and concluding at 12.28 hours on the same day. The year was 1992.

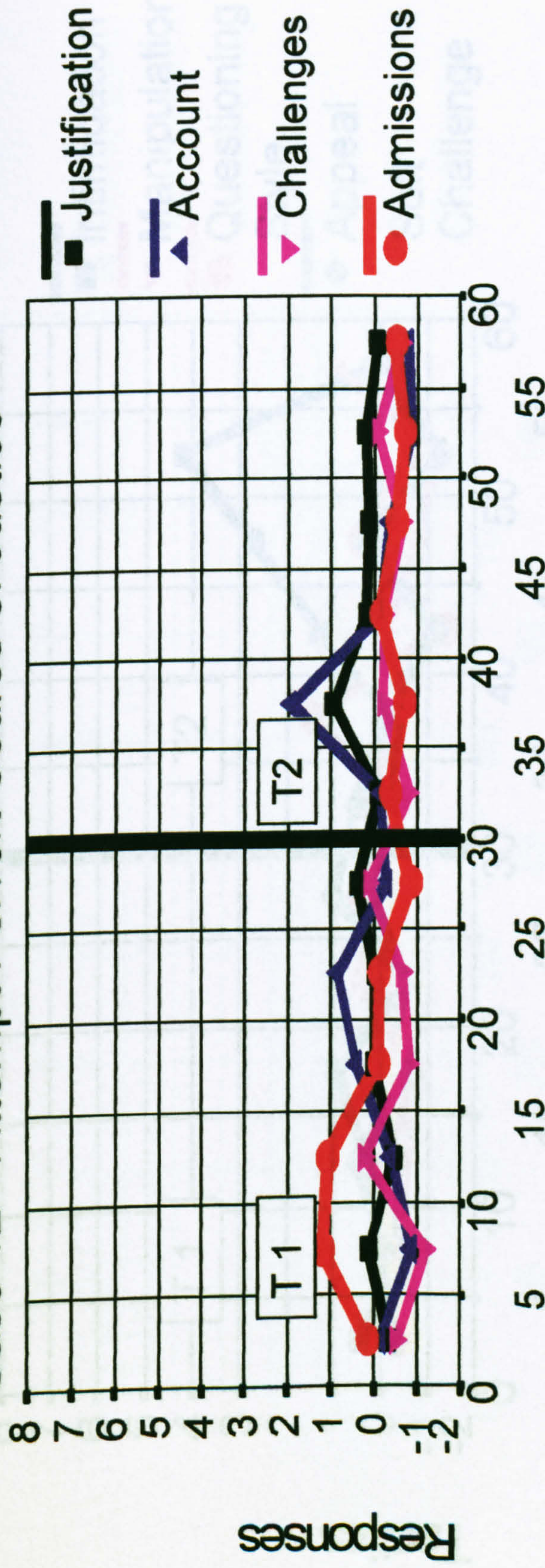
There was no legal adviser but an AA was present throughout who was reminded of her responsibilities under the Codes. There was some indication that the AA had been in contact with the suspect prior to this series of interviews. This AA made a number of contributions. Her first intervention was designed to support the suspect, it was well timed and wholly appropriate. During the second and third tapes the AA does not intervene despite the suspect indicating that she does not understand what was being asked of her, and in the last tape the AA provided added impetus to the police case by revealing details of an earlier (and possibly confidential) conversation, which appeared to precipitate the confession.

On testing this suspect was found to have a Full Scale I. Q. of 87, which represents the bottom 20 per cent of the population. She did, however, prove highly suggestible on testing and her memory proved to be poor. She pleaded guilty at court and was placed on probation for 2 years.

At the beginning, the officers appear confident and there is a full introduction regarding legal rights. However, the officers clearly suspect

that an offence has been committed but do not caution her. An open, scene setting approach is adopted in the first tape. There are two offences under investigation, falsely accusing a named person of rape (v. serious allegation) and wasting police time (registering a false complaint with police - less serious). Nearly all the interview was taken up with the latter, with only a passing reference to the major offence. This suggests a lack of preparation and structure which was evident throughout. The officers do not work that well together and both were particularly judgmental. They resorted to many leading and closed questions with some very long and verbose passages. At times there are attempts made to utilise the cognitive interview and conversation management styles. Details are manipulated throughout the interview and the likely embarrassment suffered by the suspect is continually referred to. Evaluation. Open - 1: Skilful - 1: Manipulative - 4: Forceful - 4.

Case 12 - Attempt Pervert Course of Justice



Minutes: Tapes 1 & 2

One of the responses from the suspect was that she could not remember exactly what took place but the officers dismissed this suggestion. The graph indicates a number of Admissions early on, which relate to falsely naming an individual as responsible for raping her and then Admissions in relation to her behaviour on the evening/night in question. The suspect attempts to provide her Account, and some Justification, for her actions early on in Tape 2 but as the graph shows this falls back considerably, and the tactics appear to dominate.

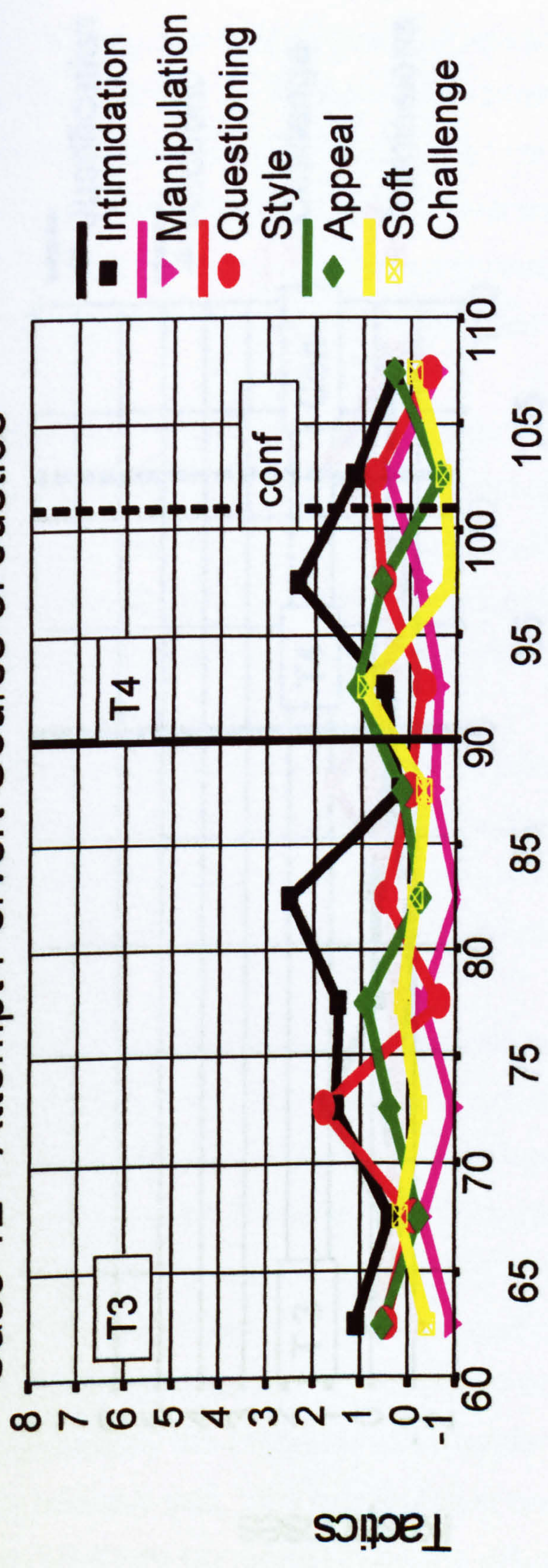
Case 12 - Attempt to Pervert the Course of Justice



Minutes: Tapes 1 & 2

The Robust Challenge tactic has been removed. In T1 the tactics (and responses) are congregated around the mean which reflects the open, 'scene setting' approach adopted by the officers, who allow the suspect the opportunity to provide her account of events. There is a distinct change in tactics evident in T2 with an increase in leading and closed questions followed by an obvious increase in the use of Intimidation, to a **Marked** degree. The officers repeatedly returned to the likelihood that the suspect would be embarrassed because their enquiries had unearthed a catalogue of events where the suspect had engaged in quite public acts of provocative sexual behaviour, including sexual intercourse in an alley and on a train. Both officers are firing questions which are quite long and contain many assertions. The officers also made reference to important third parties (mother and witnesses and if the matter went to court). Had the individual questions not been so long, this factor may have reached a greater level.

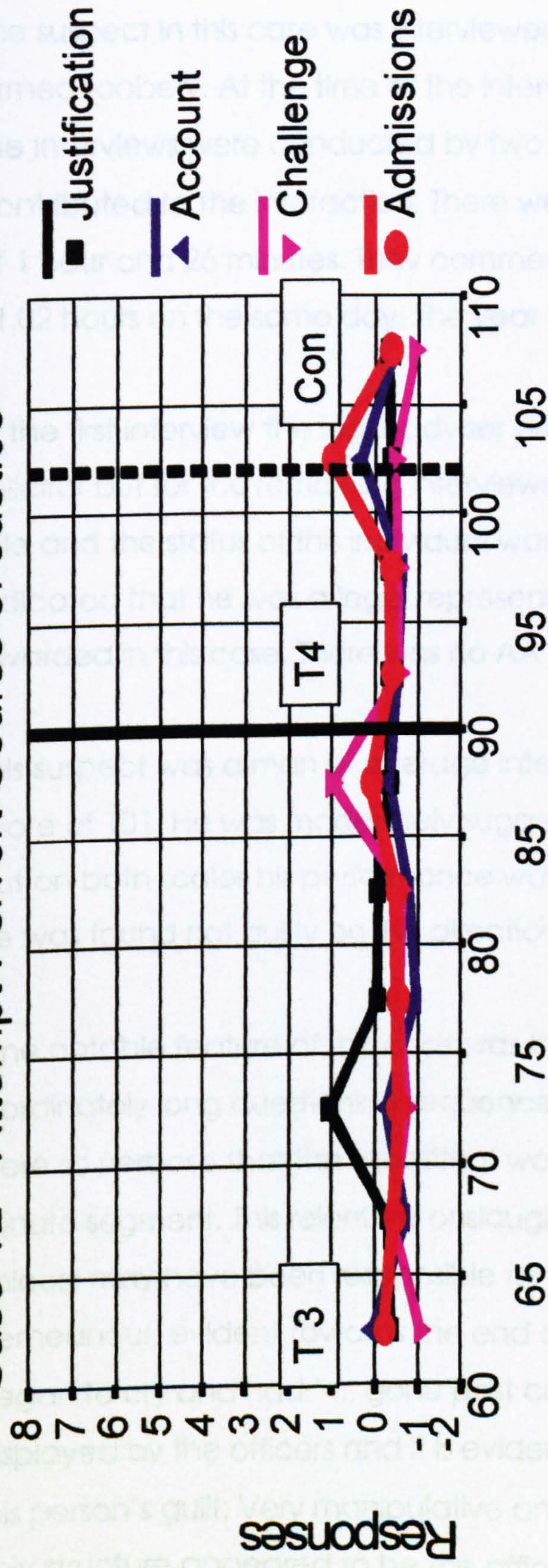
Case 12 - Attempt Pervert Course of Justice



Minutes: Tapes 3 & 4

The types of tactic employed are more dispersed, but again the most prominent in both T 3 and T4 is Intimidation. Taken as a whole, these graphs depict the primacy of this first factor and listening to the tapes the pressure and intimidation from the officers is quite considerable. All the variables from this one factor are ever present. As an example, both officers would introduce very long and very damaging statements about the behaviour and actions of the defendant, often without allowing her an opportunity to respond. Such questioning would cover a number of pages and cannot be reproduced here but the themes of embarrassment and the use of significant others continued, together with the continued manipulation of crucial evidential details.

Case 12 - Attempt Pervert Course of Justice



Minutes: Tapes 3 & 4

In T3 there is evidence of some Justification and Challenges from the suspect, but these are hardly beyond the confines of the *Average* category. In T4 there would appear to be very few responses from the suspect until the second segment. This is because of the persistent questioning from the officers and the AA. The AA actually joined in the interrogation,

'It's only on your admission, he's not going to know that you didn't want sex, because you've not told him and you've had sex with him previously, you've been kissing and cuddling, performing oral sex. He's not going to know that that's not what you want.'

To which the suspect replied, 'OK so no, I wasn't raped.'

An introduction to Case 13.

The suspect in this case was interviewed in relation to two allegations of armed robbery. At the time of the interview he was 23 years of age and the interviews were conducted by two detective constables, who both contributed to the interaction. There were three interviews lasting a total of 1 hour and 26 minutes. They commenced at 15.04 hrs and finished at 21.02 hours on the same day. The year was 1992.

In the first interview the legal adviser present introduced himself as a solicitor but for the remaining interviews another person took over this role and the status of this individual was unknown, although records indicated that he was a legal representative. A negative coding was awarded in this case. There was no AA present.

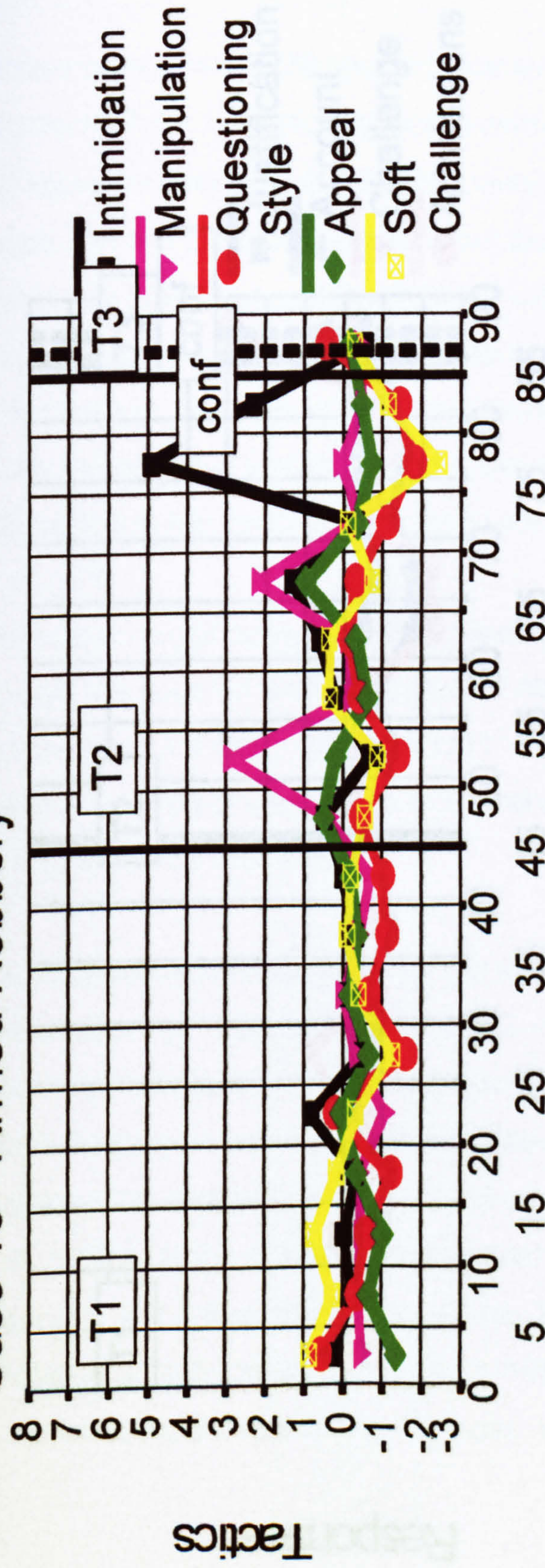
This suspect was a man of average intelligence with a Full Scale I. Q. score of 101. He was moderately suggestible and compliant on testing, but on both scales his performance was within normal limits. At his trial he was found not guilty on the directions of the judge.

One notable feature of this case was the presence of a number of inordinately long questioning sequences. In some instances the officer(s) were so verbose that the 'question' would extend well beyond the five minute segment. This relentless onslaught (accompanied by raised voices) may have been responsible for the deterioration in the suspect's demeanour, evident towards the end of the second tape when he began to cry and had '... gone past caring'. Poor listening skills were displayed by the officers and it is evident that they were convinced of this person's guilt. Very manipulative and very intimidating interview. The only structure appeared to be the officers' reliance on a number of

statements, which did not appear to be wholly reliable documents.

Evaluation. Open - 1: Skilful - 1: Manipulation - 4: Forceful - 4.

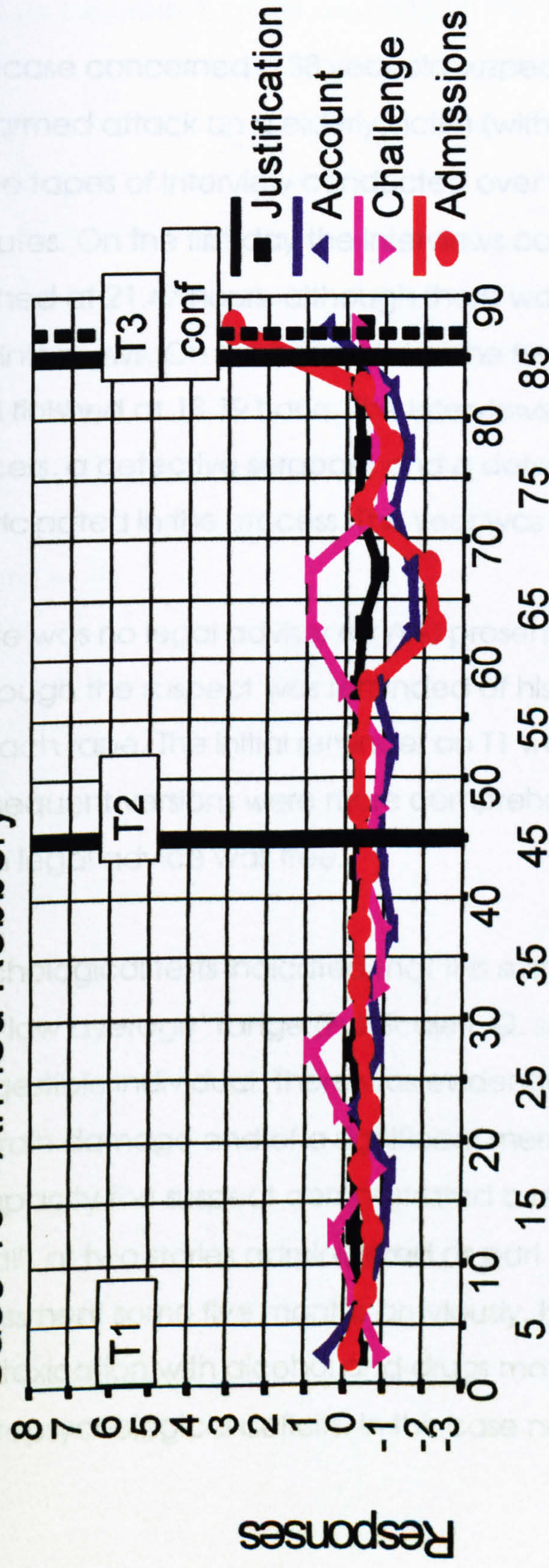
Case 13 - Armed Robbery



Minutes. Tapes 1 - 3

Robust Challenge has been removed. The opening sequence is composed of mainly closed questions, taken from witness statements. The officers place great reliance on this witness information and embellish some of the detail. In T2 Manipulation and Intimidation are the most popular tactics employed with the latter almost reaching *Extreme* proportions. In their opening summary of this tape the officer again implies that a witness has implicated the suspect in 'two serious crimes', this was incorrect. The Manipulation tactics included inducements that the suspect could have matters taken into consideration (TIC) by the courts as it which would be advantageous to him - 'Now, that deal is on the table to you. ... You know there's other things we can go into. ... the more charges you have, the more punishment you get. ... Do you want charges or TIC's?'. The officers speculate on the effect of the suspect's behaviour to his wife and to his girlfriend. A long Intimidating sequence from both officers brings the tape to a close, in which the suspect is constantly reminded of his family, the offer of TIC's and the extent of the fear and disruption caused to the victims of the robbery.

Case 13 - Armed Robbery



Minutes. Tapes 1 - 3

The graph indicates that apart from a few Challenges (in both T1 and T2) the suspect does not say a great deal. This is indeed the case. The suspect is able to provide his account of events and also introduce some Challenges to what is being alleged - 'That's a presumption, isn't it?'; 'I'm saying I didn't have anything to do with it. Me and [the witness] have never got on. She presumes that it's me'. The suspect correctly points out the assumption made by the witness - 'What I can see from this is she's put my name to this face'. As the use of tactics increases in T2, the suspect can be heard sniffing. After a consultation with his legal adviser the suspect confesses.

An introduction to Case 14.

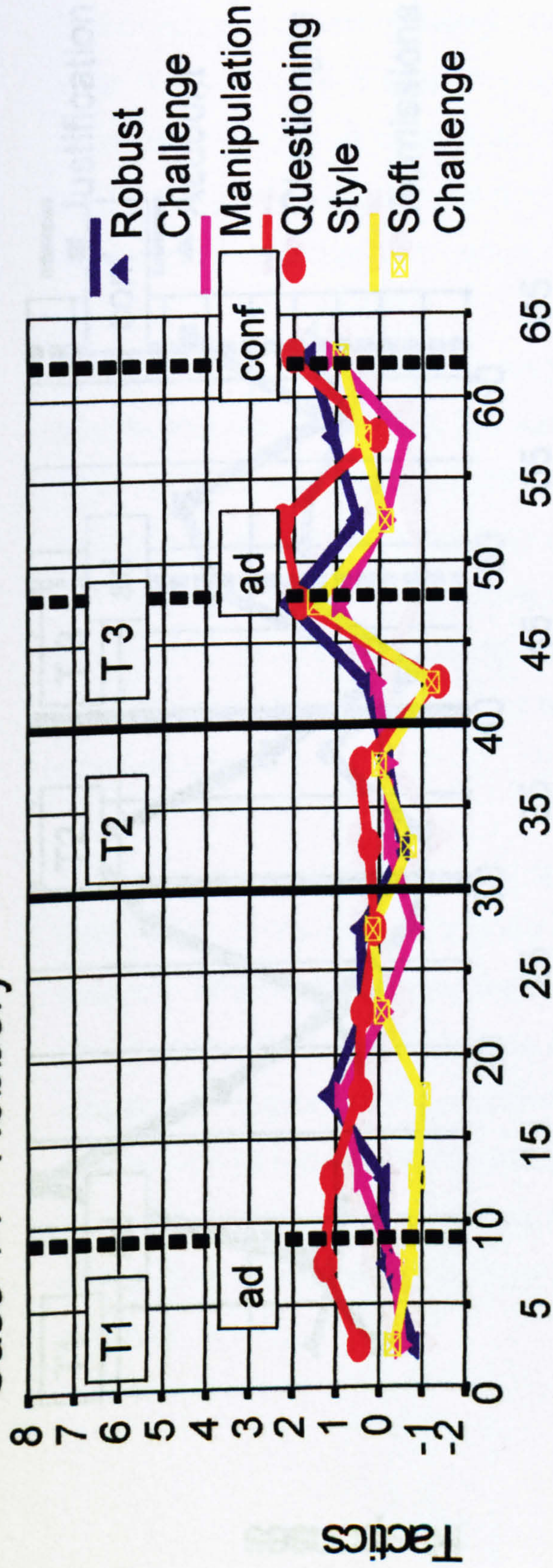
This case concerned a 38 year old suspect who was interviewed in relation to an armed attack on a elderly victim (within the victim's home). There were three tapes of interview conducted over two days which lasted a total of 66 minutes. On the first day the interviews commenced at 15.46 hours and finished at 21.47 hours, although there was a break of over 5 hours between the interviews. On the second day the interview commenced at 17.42 hours and finished at 18.19 hours. The interviews were conducted by two male officers, a detective sergeant and a detective constable, who both participated in the process. The year was 1992.

There was no legal adviser (or AA) present at any time during the interviews although the suspect was reminded of his legal entitlements at the beginning of each tape. The initial reminder on T1 was a rather cursory affair but the subsequent versions were more comprehensive and included the fact that such legal advice was free.

Psychological tests indicated that this suspect was functioning Intellectually in the 'low average' range (Full Scale I. Q. score of 81) and he was not a suggestible individual. There was evidence, however, of the residual effects of brain damage and of a significant memory impairment. Despite this incapacity the suspect demonstrated a remarkable ability to recall the details of two stories administered as part of an earlier psychological assessment some five months previously. It was noted that the recent effects of intoxication with alcohol and drugs may have exacerbated his neuropsychological deficits. In this case no evidence was offered at the trial.

This interview was not skilfully conducted, it tended to be somewhat forceful and manipulative, rarely resorting to the use of open questions. Having said that, it was not a straightforward interview evaluation. The nature of the officers' questioning was very leading, the suspect was repeatedly provided with the 'required' answer. For example, after numerous suggestions from the officers that he may not remember because of 'drink and drugs' this is accepted by the suspect who is then 'led' through a series of important questions concerning how entry was gained to the flat. There was also evidence of an earlier pre-tape conversation. The suspect made reference to a specific item of evidence (a tape recording) that had not previously been openly discussed. Evaluation. Open - 1: Skilful - 1: Manipulative - 3: Forceful - 2.

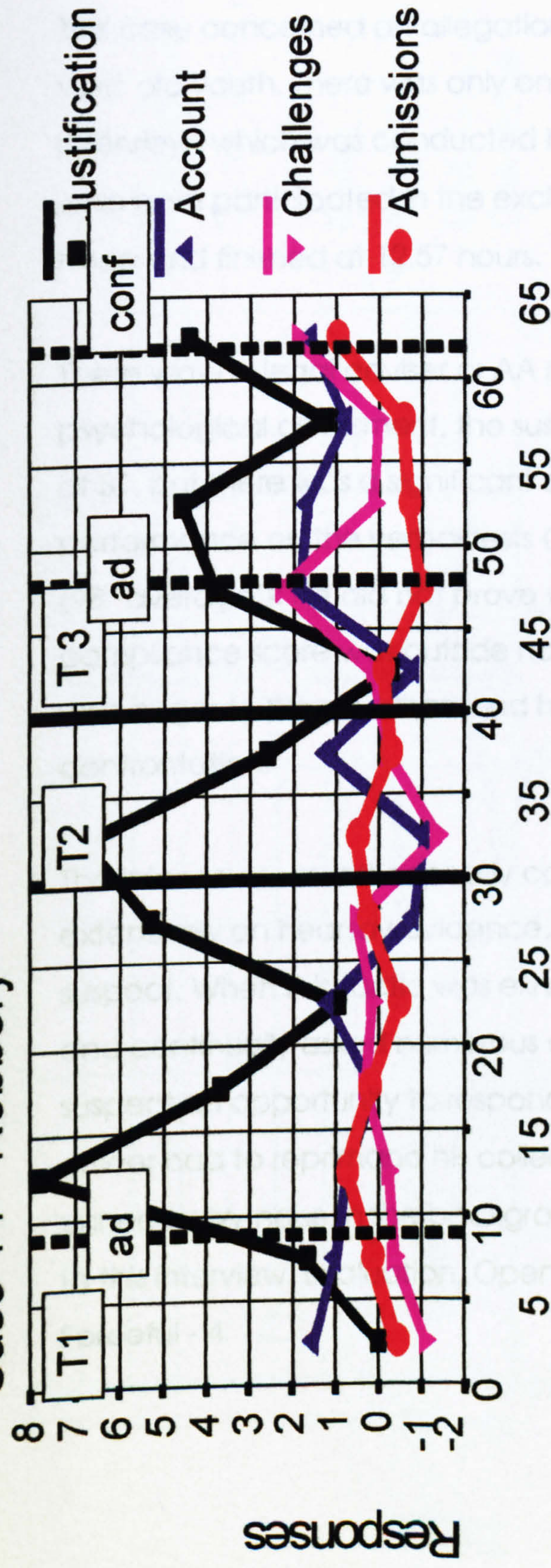
Case 14 - Robbery



Minutes. Tapes 1 & 2 - day 1. Tape 3 - day 2.

Intimidation and Appeal have been removed. This graph is remarkable for its lack of activity. Only towards the end of the interview do we see evidence of a slight increase in tactics (reaching a *Moderate* level). From the outset the suspect admitted taking part, but not to injuring the victim. Accordingly, a slight increase in tactics is evident at the start of T3. The officers had visited the victim in hospital prior to the third tape and with this additional evidence were able to accuse the suspect of playing an active part in the assault. The officers pursue a full confession and resort to interrupting and challenging the suspect's responses as lies or not believable (Robust Challenge) and challenging him with the victim's version of events - Soft Challenge - 'Well he's not lying is he?' Suspect 'Well I'm not bloody lying neither.' Question 'Well of course you're lying, because you've got a lot to lose here.' Suspect 'Well I might've hit him once, but I never bloody put him in bloody hospital'.

Case 14 - Robbery



Minutes. Tapes 1 & 2 - day 1. Tape 3 - day 2.

This case is dominated by the extensive use of the response factor Justification. A closer examination reveals that all five constituent variables for this factor are well represented in each tape. There are two very interesting aspects to this case. The first was that the response score was considerably greater than the tactic score, on the Y-axis. The second feature concerns the absence of a dominant tactic that corresponded with this Justification response. In other cases in this sample, an increase in one or more of the tactics would often be reflected in the response graph. One explanation for the exaggerated use of Justification may be because the suspect repeatedly claimed he could not remember details and commonly introduced qualifications into his answers (there was psychological evidence of a retrieval problem). In T1 and T2 the Justification factor reached **Extreme** levels and in T3 there were two peaks at a **Marked** level. The first admission related to being present, the second to, '.. I might've hit him once but that's all' and eventually a confession was made.

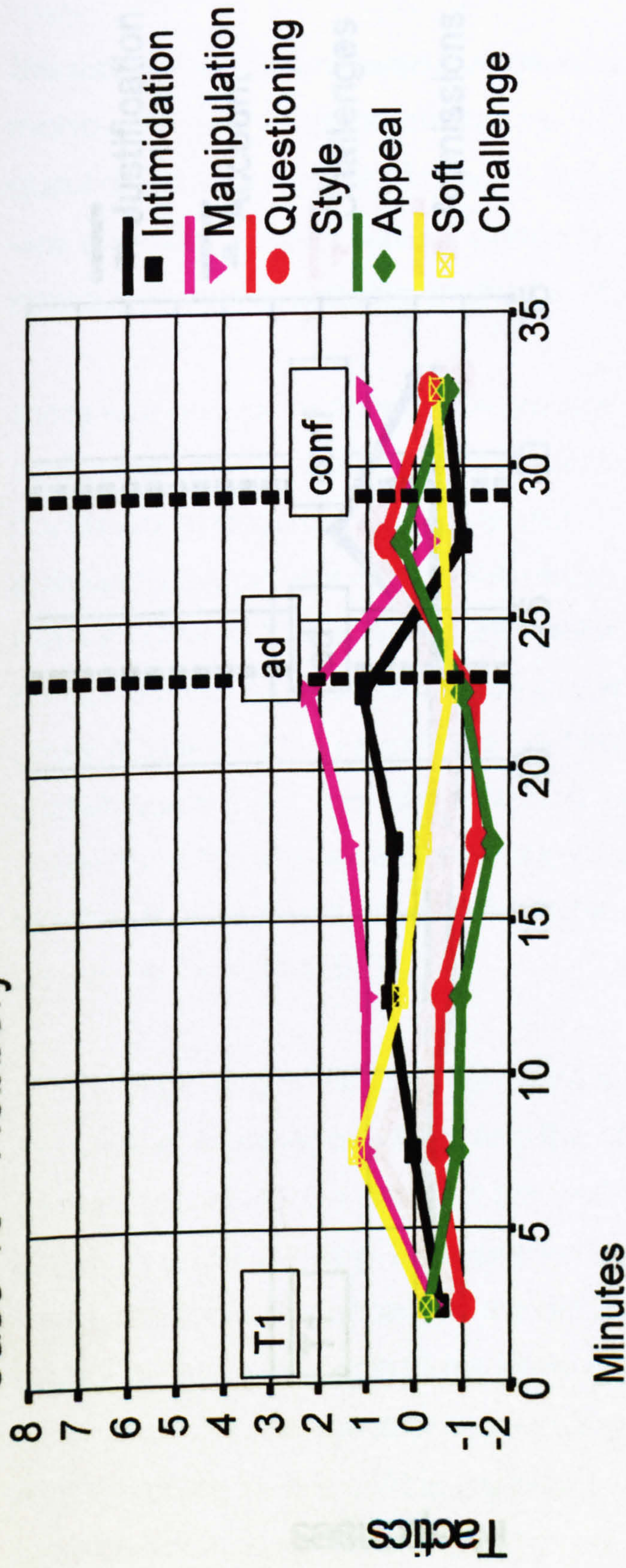
An introduction to Case 15.

This case concerned an allegation of robbery made against an 18 year old youth. There was only one relevant 35 minute tape of interview, which was conducted by two male detective constables, who both participated in the exchange. The interview started at 12.22 hours and finished at 12.57 hours. The year was 1996.

There was no legal adviser or AA present. According to the psychological assessment, the suspect obtained a Full Scale I. Q. score of 81, but there was a significant discrepancy between his performance on the verbal tests (73, 'borderline') and non-verbal skills (98 'average'). He did not prove unduly suggestible on testing but his compliance score was outside normal limits, which suggested that he was eager to please others and had a tendency to avoid conflict and confrontation.

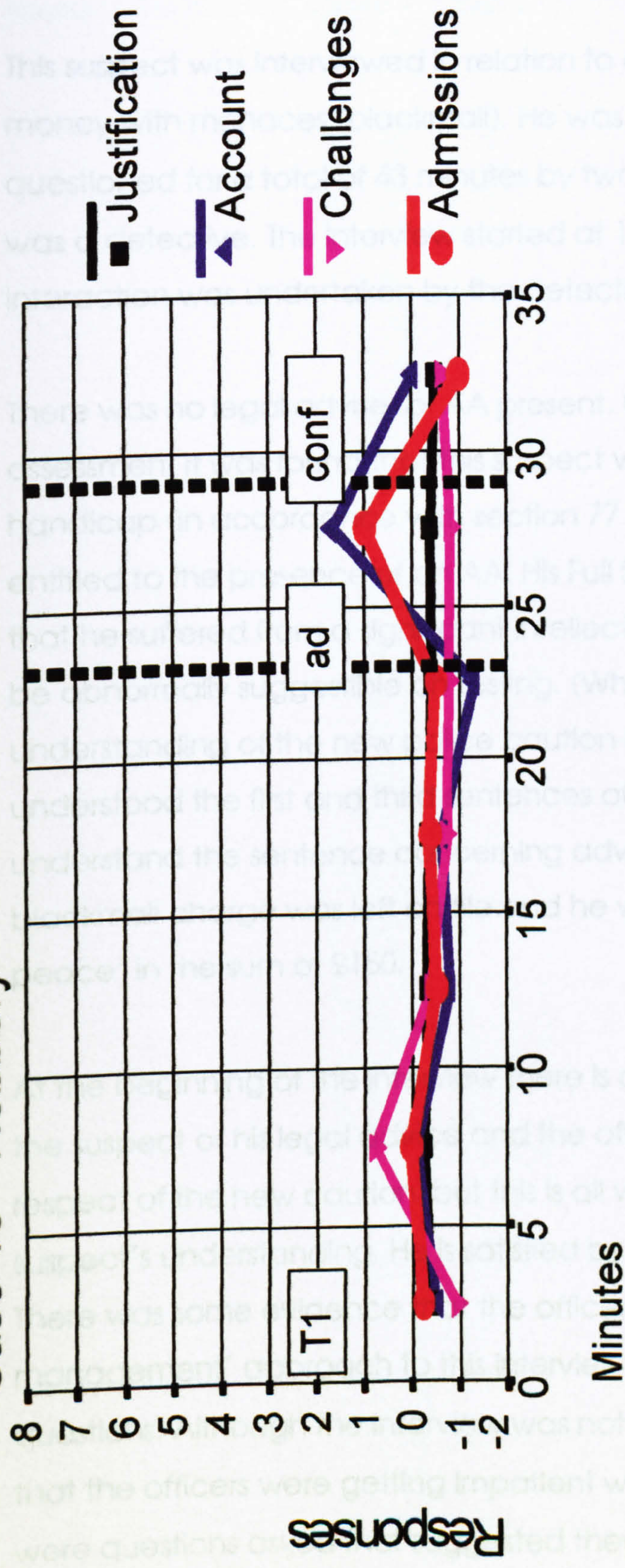
The interview was rather poorly conducted. The officers relied extensively on hearsay evidence, with which they 'bombed' the suspect. When this tactic was exhausted, they resorted to manipulation and continually asked numerous questions without allowing the suspect an opportunity to respond. At one stage the interviewing officer had to reprimand his colleague who was making a lot of unnecessary noise in the background. There was no obvious structure to this interview. Evaluation. Open - 1: Skilful - 1: Manipulative - 3: Forceful - 4.

Case 15 - Robbery



Robust Challenge has been removed. Immediately before the first admission there is a noticeable increase in the use of the tactic Manipulation to a *Moderate* level, and a slight increase in Intimidation is evident from the opening segment. Offering the suspect a secondary or minimal role was repeatedly used as a form of minimisation. After the admission, there is a marginal increase in Appeal and Questioning Style and then a slight increase in Manipulation, leading to a confession. The type of tactics leading to the first admission included: '... he heard you boasting to other lads... so there is no doubt that you have done this job, what we need to know from you is what your intentions were when you went in...' ... whether you were directly involved in the shop or whether you were out of the shop... you were maybe lookout for some... I appreciate ... the hardest thing is to take a deep breath and swallow... this is what happened and this was my part.... for your own welfare and wellbeing you have got to come to that point and bite the bullet and get it over and done with'.

Case 15 - Robbery



With the conversation almost monopolised by the two officers (asking questions one after the other) this is a fair reflection of the interaction in this case. The initial Challenges amounted to denials such as 'I didn't enter the shop because I didn't do it. I was in bed', 'I wasn't boasting' and 'I am telling the truth I had nowt to do with it at all'. It was only after an admission had been made that there was an increase in the Account factor (*Moderate* level) and to a lesser extent, Admission.

An introduction to Case 16.

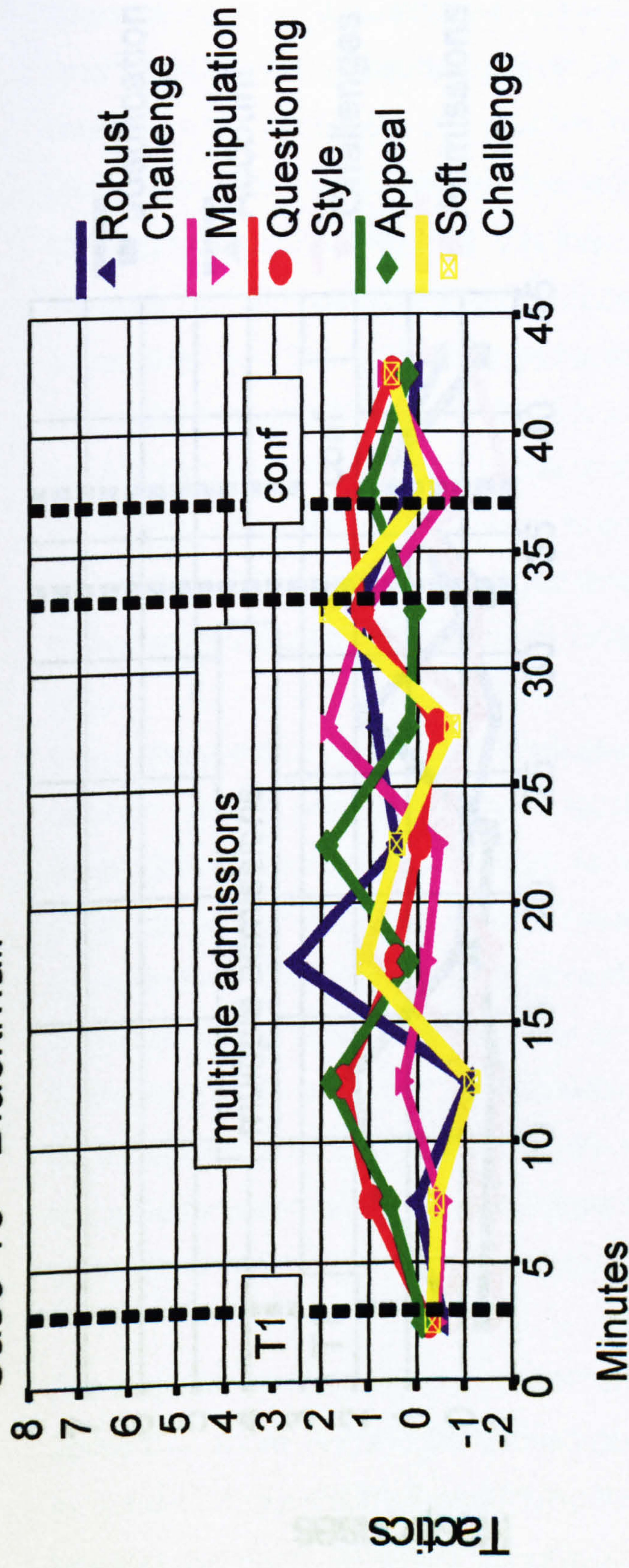
This suspect was interviewed in relation to an allegation of demanding money with menaces (blackmail). He was 24 years of age and he was questioned for a total of 43 minutes by two male constables, one of whom was a detective. The interview started at 15.49 hours and almost the entire interaction was undertaken by the detective officer. The year was 1995.

There was no legal adviser or AA present. On the basis of a psychological assessment it was found that this suspect was suffering from a mental handicap (in accordance with section 77 of PACE) and therefore was entitled to the presence of an AA. His Full Scale I. Q. score of 63 indicated that he suffered from a significant intellectual impairment. He also proved to be abnormally suggestible on testing. (When questioned in respect of his understanding of the new police caution it was clear that he only understood the first and third sentences of the caution. He did not understand the sentence concerning adverse inferences.) At court, the blackmail charge was left on file and he was 'Bound over to keep the peace' in the sum of £150.

At the beginning of the interview there is an excellent example of reminding the suspect of his legal advice and the officer also goes into some depth in respect of the new caution, but this is all wasted when he fails to test the suspect's understanding. He is satisfied by the reassurances from the suspect. There was some evidence that the officers employed the 'conversation management' approach to this interview, along with the use of open questions. Although the interview was not rushed there was some evidence that the officers were getting impatient with the suspect even though there were questions asked that suggested they were aware of his potentially

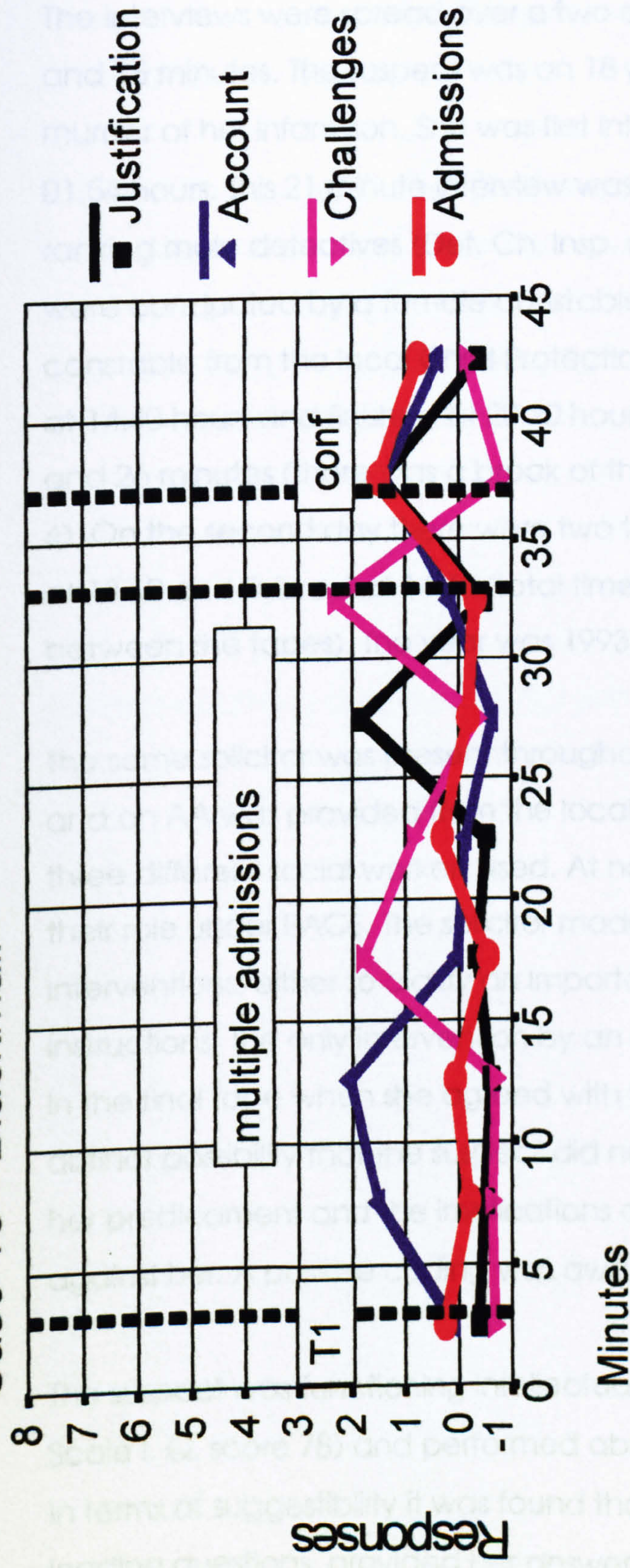
vulnerable status. There were a large number of challenges put to the suspect. Evaluation. Open - 1: Skilful - 1: Manipulative - 3: Forceful - 4.

Case 16 - Blackmail



Intimidation has been removed. The graph indicates that all five factors are employed to a **Moderate** degree leading up to a confession. Examples of some of the tactics include: Robust challenge - 'That's a lie isn't it?', 'You weren't talking for half an hour because I asked you before and you said you were only in the house for fifteen minutes', 'Let me finish, 'cos you don't know what I'm going to say....'. Appeal - 'Well come on then tell us the truth 'cos the sooner you tell us the truth the sooner we can get it sorted out (followed by periods of silence). Manipulation - 'I'm not suggesting that you tied her up, I'm not suggesting that you held a bat to her head, I'm not suggesting that you struck her in any way shape or form, OK?', '.. we're not saying you've hurt her, you've frightened her'. The Soft Challenge tactic tended to introduce evidence from the victim and then to make a direct comparison between the two version of events, often culminating with 'So [she] is lying?'.

Case 16 - Blackmail



This suspect admits to the fact that he went to the victims home and 'asked' for money and the officers then allow him to provide an Account in the early stages of the interview and he is agreeing with some of their suggestions. After this stage, there is evidence of the use of Challenges from the suspect where he disputes the question of intent that is implied by the interviewing officers (reaching a **Marked** level). Justification also features on this tape where the suspect accepts the theme that they have presented, that he is ashamed of what he has done.

An Introduction to Case 17.

The interviews were spread over a two day period and lasted for 4 hours and 15 minutes. The suspect was an 18 year old mother, arrested for the murder of her infant son. She was first interviewed between 01.33 and 01.54 hours. This 21 minute interview was conducted by two middle ranking male detectives (Det. Ch. Insp. and D. Insp). The other interviews were conducted by a female constable and a male detective constable from the local Child Protection Unit. Tapes 2 - 5 commenced at 14.40 hours and finished at 20.20 hours, lasting for a total of 2 hours and 26 minutes (there was a break of three hours between tapes 3 and 4). On the second day there were two tapes of interview, which started at 13.10 and finished at 14.45 (total time 1 hr 28 mins - with a 7 min gap between the tapes). The year was 1993.

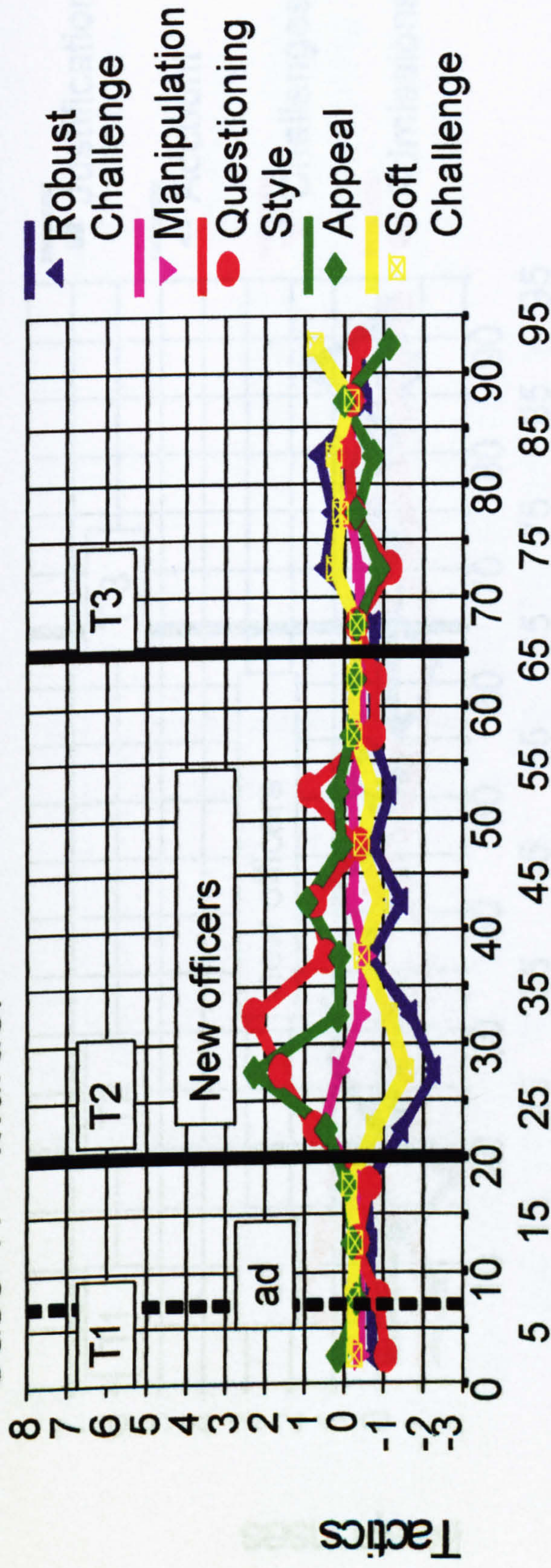
The same solicitor was present throughout the sequence of interviews and an AA was provided from the local Social Services; in all there were three different social workers used. At no time was the AA informed of their role under PACE. The solicitor made two or three relevant interventions, either to clarify an important point or to seek further instructions. The only intervention by an AA occurred at a crucial stage in the final tape when she agreed with the solicitor that there was a distinct possibility that the suspect did not appreciate the seriousness of her predicament and the implications of the allegation and evidence against her. A positive coding was awarded to each agent.

The suspect was functioning intellectually in the 'borderline' range (Full Scale I. Q. score 78) and performed abnormally poorly on memory tests. In terms of suggestibility it was found that she was well able to resist leading questions, provided her answers were not criticised. When

placed under pressure however, she became highly suggestible which indicates she was vulnerable to giving a potentially erroneous account of events. This suspect pleaded guilty to manslaughter and was placed on probation for 3 years.

The first interview was conducted at a gentle pace, with the suspect encouraged to provide a free narrative account of events. The second interviewing team engaged in a sequence of wholly inappropriate rapport building exercises (making light of the suspect's predicament, which was rarely reciprocated). After establishing a general account of events the officers began to challenge the suspect's version of events and became rather manipulative. In the final interviews these tactics continued as admissions were retracted (provoking signs of impatience from officers) and the extent to which the suspect fully understood events became a crucial issue. Not skilfully conducted. Evaluation. Open - 2: Skilful - 1: Manipulative - 3: Forceful - 3.

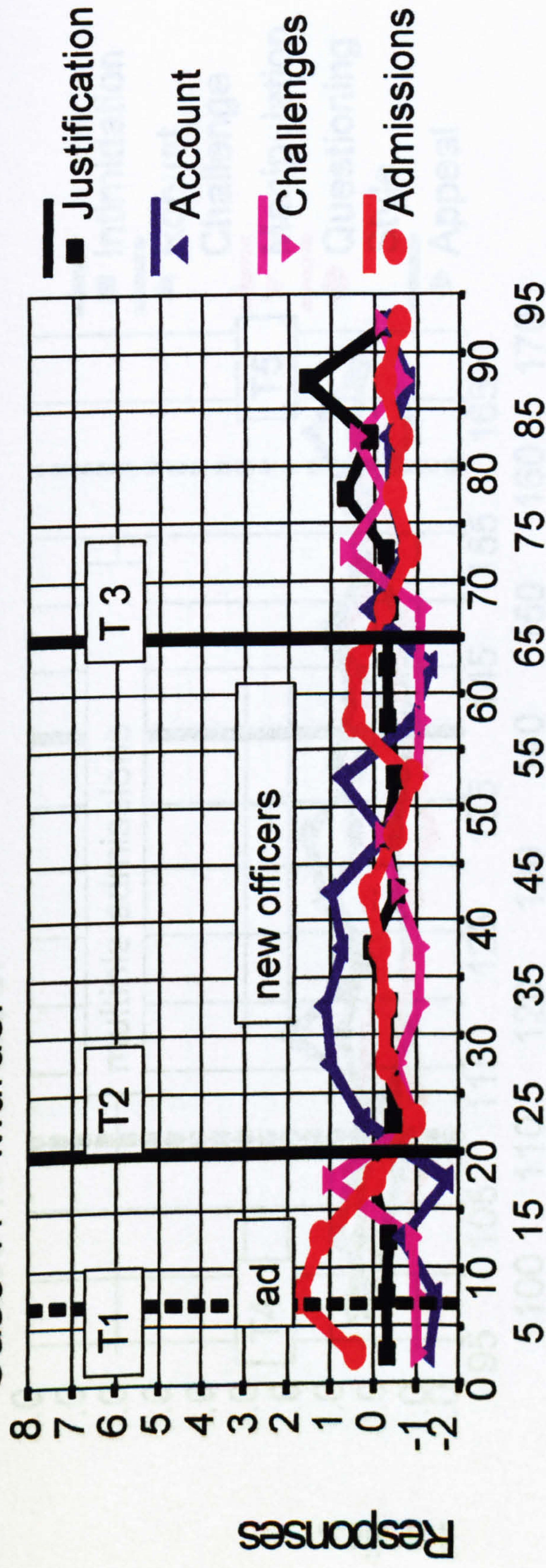
Case 17 - Murder



Minutes: Tapes 1, 2 & 3

Intimidation has been removed from these three tapes. There were few overt tactics employed in T1. The conduct of the opening interview can be gauged from an early question 'Right as we go through this interview I am interested in your version of events. It is your story, we will just sit quietly and allow you to tell us in your own words, you can take your time, if you're not sure about anything don't hesitate to ask a question either of myself or this officer, your solicitor and the social worker present. If your not sure about the question please don't hesitate to ask and tell us that you don't understand the question. Are you quite happy with that? Only Appeal and Questioning Style are evident in T2 and T3 to a *Moderate* level. They also contain attempts by the officers to try and lighten the seriousness of the occasion. For example, talking of sleepless nights the Det Con says "I had one [infant] who was exactly the same. I know exactly what you mean, I remember like it was yesterday.' Suspect replied, 'It was only yesterday for me, wasn't it?' (very inappropriate tactics).

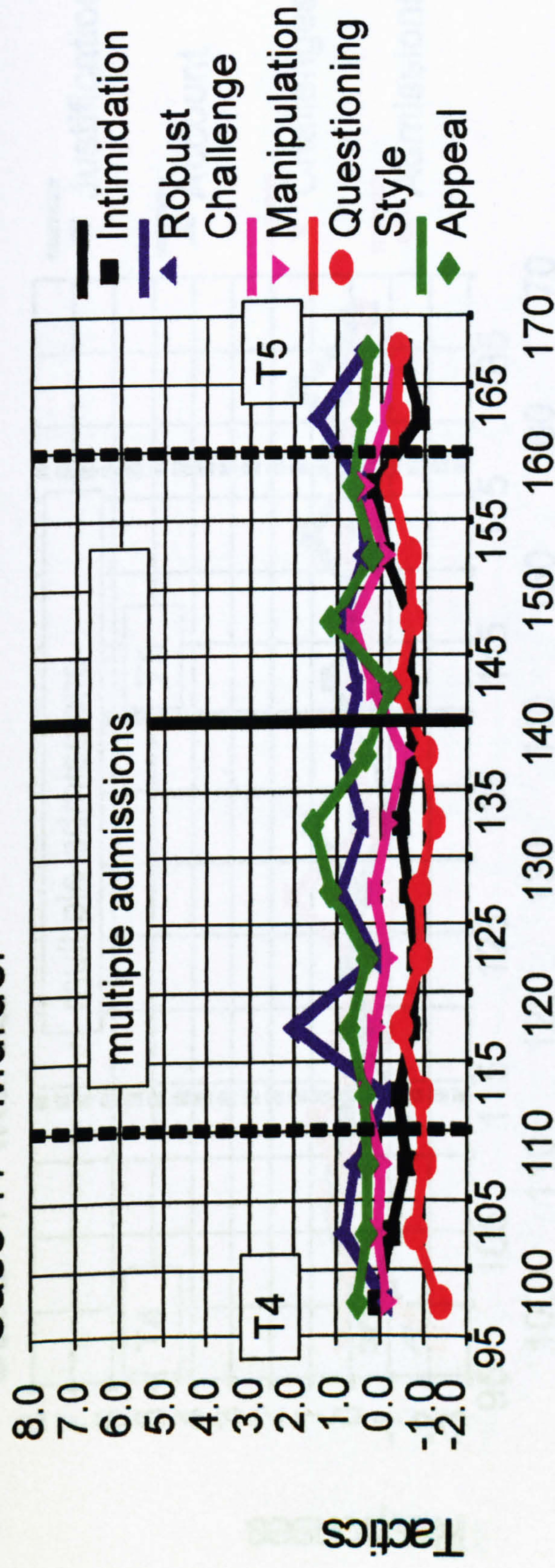
Case 17 - Murder



Minutes: Tapes 1 - 3

The opening admission relates to the suspect knowing the baby was injured. In T2 the suspect provides her Account of the family history, the father, immediate family and the child's brief life. The suspect can be heard sniffing when the discussion centres on the child. There is an increase in the response Justification in T3 where the suspect has attempted to account for how the child could have sustained the fatal injuries and she begins to implicate others - 'Me mum had always baby-sat most of the time and when he'd come back he used to cry for quite a while, I don't know why, he just used to raise his legs up most of the time.... she took him on the Saturday for the whole day, I came back and he had a funny look on his face'.

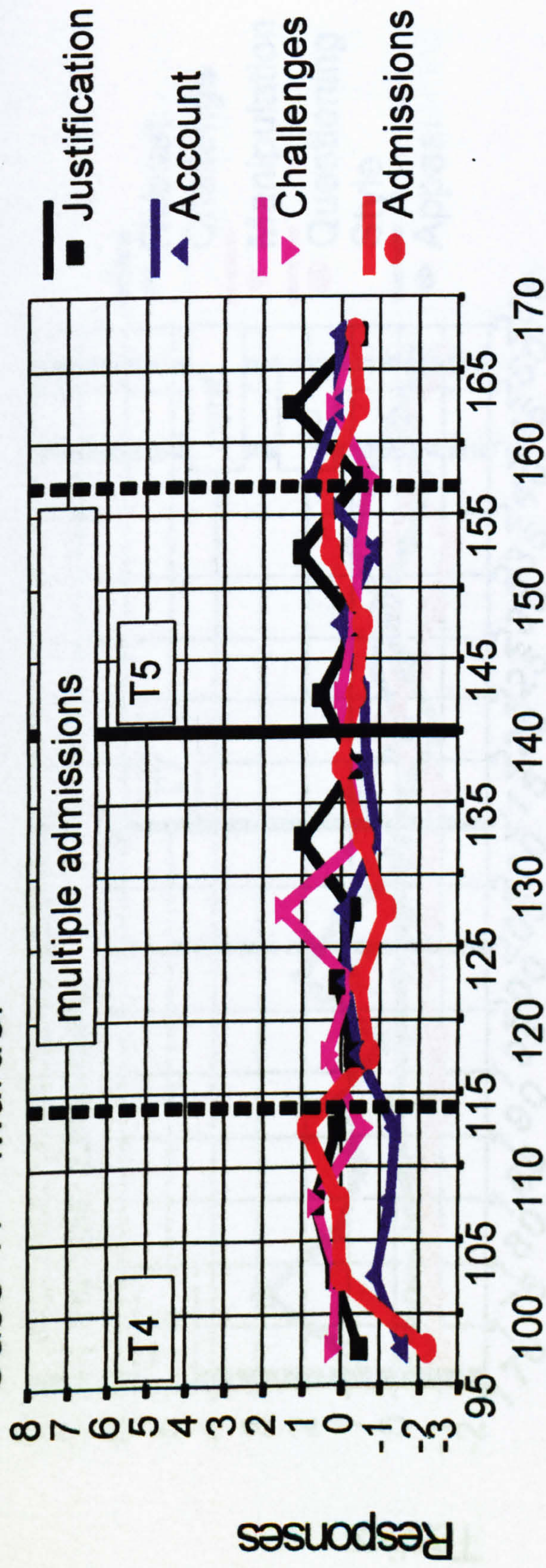
Case 17 - Murder



Minutes: Tapes 4 & 5

Soft challenge has been removed from these two tapes. Although the number or intensity of the tactics used in this sequence does not register very high on the Y-axis, the tone of these interviews was very different to the first three. They had been concerned with establishing an account of events from the suspect, now the officers were attempting to undermine this account. The two main tactics in use are Robust Challenge and Appeal. There is a slight increase in the use of Manipulation at the start of T5. The tactics from the officers are concerned with challenging the suspect's version of events - 'You've done something to him, well it's either you or [husband].... something's happened and it might be very easy for you to block that bit out of your mind but like I don't believe you... ', and appealing with the suspect to tell the truth - '... tell the truth fully ... how hard did you shake him.... And you've got to face up to it pet that what's happened. It cannot be undone now, but we must find out the truth'. As no confession materialised at the end of T4, the officers continued with similar tactics in T5.

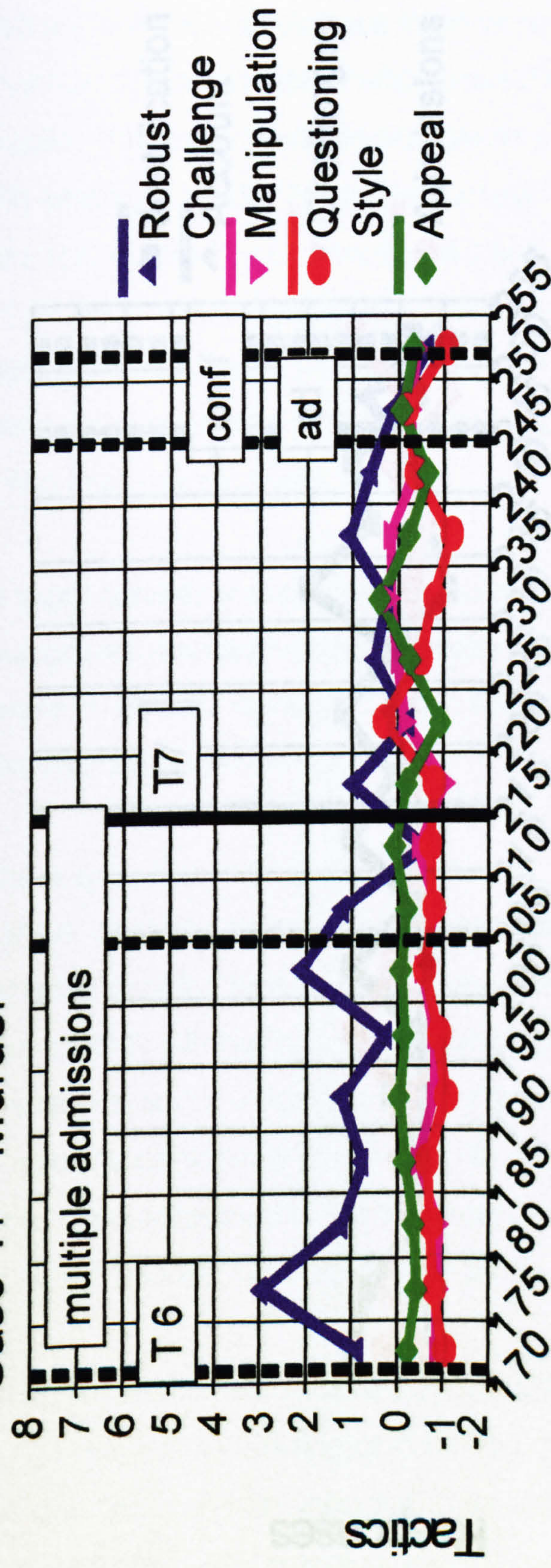
Case 17 - Murder



Minutes: Tapes 4 & 5

The Admissions that appear relate to various assaults on the child - 'I shook him a little bit... I only slapped him once.... As I was going to the pram I dropped him.' Some Challenges were evident (at a *Moderate* level) in T5, - Suspect 'No, I didn't think that for a minute...'. The officers continue to suggest what they think has happened and make a number of suggestions and themes which the suspect accepts, which are reflected in the Justification factor - '.. I think you flung him down..' Suspect 'I flung him off the bed ...', and '..I think ... you flung him on the floor, probably a couple of times... there's nothing worse than a baby who's constantly crying...don't get much rest...relationships .. strained... a few rows... haven't got much money... not getting on with mum.. put it all together...pressure is intense, the pressure is building up, the cause... is the baby.. right? .. And this is why I think you've snapped', Suspect '..I must have just snapped because the pressure had been, what was putting on us, I just couldn't take it anymore'.

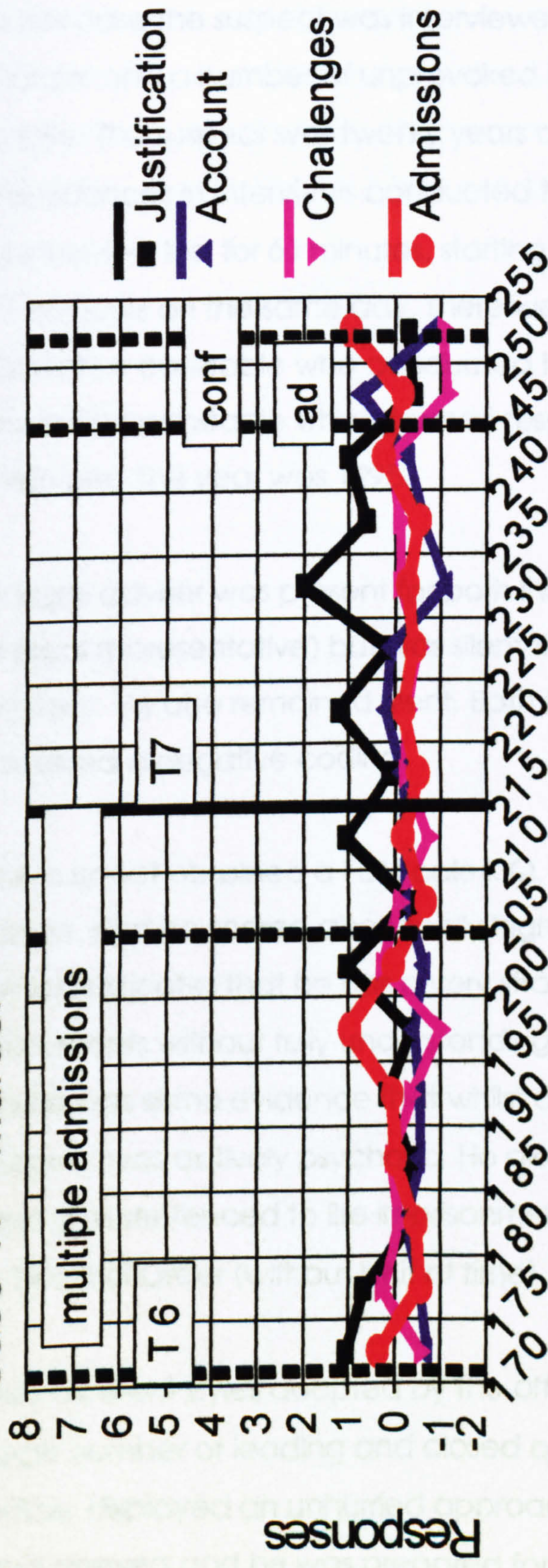
Case 17 - Murder



Minutes. Tapes 6 & 7: day 2.

Intimidation and Soft Challenge have been removed. The main factor employed in T6 was Robust Challenge, which almost reached a **Marked** level. This appears to have been prompted when the suspect retracted her earlier admissions following a conversation with her solicitor. These withdrawals produced an increase in the number of interruptions made by the officers (with evidence of increasing impatience) and challenging the suspect's revised story as not believable - 'Well I don't believe that.... Do you know what I think? I think .. what you said to us yesterday, is probably true, and now we are having second thoughts about saying it'. In T7 the tactics tend to congregate within the parameters of the **Average** distribution category.

Case 17 - Murder



Minutes. Tapes 6 & 7: day 2.

At the beginning of this session of interviews the suspect withdraws her earlier admission, but then goes on to reiterate the same and other admissions. The solicitor makes another attempt to clarify matters but the suspect's responses remain ambiguous, contradictory and there were indications that she was unable to appreciate the significance of her replies - Solicitor '... but do you understand the connection between you throwing him and hitting his head and what they're saying that you've done as a result of that, which is effectively murder you son, well do you understand that?' Suspect 'I know that but, yeah I understand but as far as I can gather I didn't kill him...'. The confession is taken as the point where she accepted responsibility for the injuries to the child's head (but the question of intent remained in debate).

An introduction to Case 18.

In this case the suspect was interviewed in relation to an allegation of murder and a number of unprovoked knife attacks on members of the public. The suspect was twenty years of age and had already denied the offences in interviews conducted the previous week. The two tapes of interview last for 61 minutes, starting at 20.21 hours and finishing at 21.25 hours on the same day. There were two male officers present, a detective constable who conducted the first interview and a trainee detective constable who assumed responsibility for the second taped interview. The year was 1995.

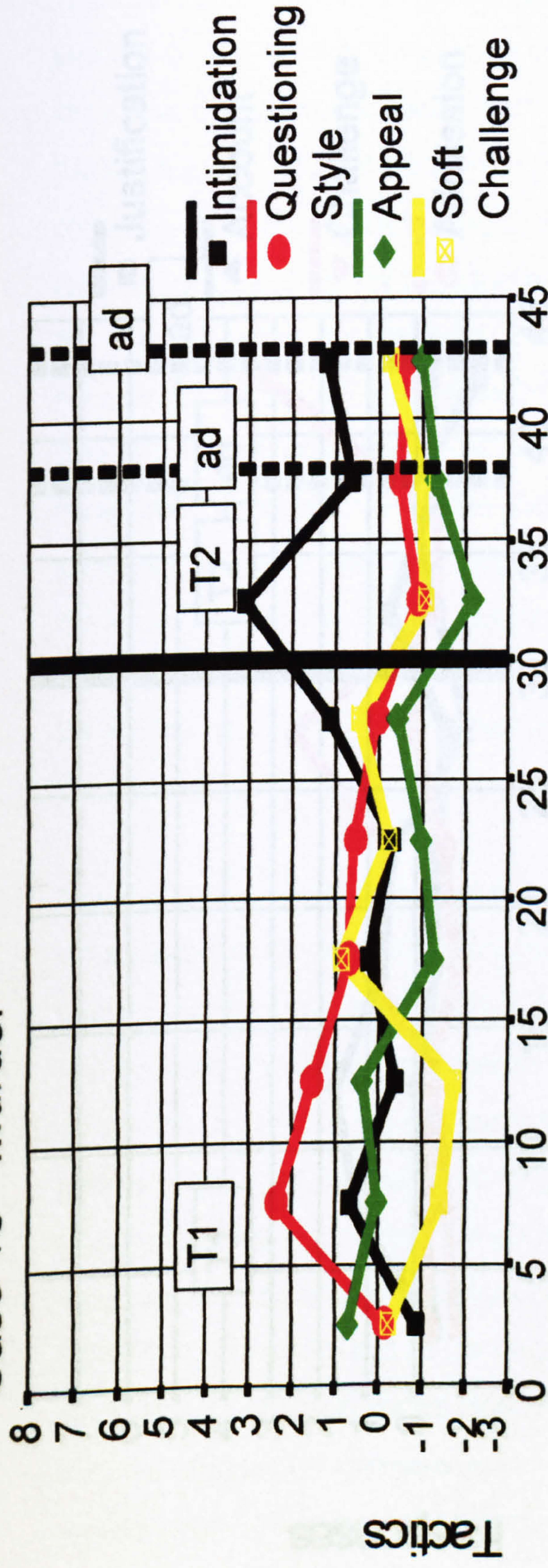
A legal adviser was present for both interviews (introduced on tape as a legal representative) but was silent throughout. An AA was also present. He also remained silent. Both the AA and the legal adviser received a negative coding.

The suspect obtained a Full Scale I. Q. score of 80, 'low-average' range, and he scored abnormally high on the acquiescence test, which indicates that he has a very strong tendency to agree with statements without fully understanding or considering their content. There was some evidence that whilst detained at the police station this suspect was actively psychotic. He pleaded guilty to manslaughter and was sentenced to life imprisonment. This was varied on appeal to a Hospital Order (without limit of time).

Two different styles adopted by the officers. In the first interview, a large number of leading and closed questions were employed, but the officer displayed an unhurried approach, allowing time for questions and answers and he was prepared for silence. He was not

authoritative. There was some evidence of rapport and he was courteous and also confident. The second interview was driven by the new officer. He was more assertive and at times aggressive. Able to draw on the previous criminal behaviour of the suspect, he also exploited a crucial issue that appeared to motivate him to assault others. Evaluation. Open 3: Skilful - 3: Manipulative - 3: Forceful - 3.

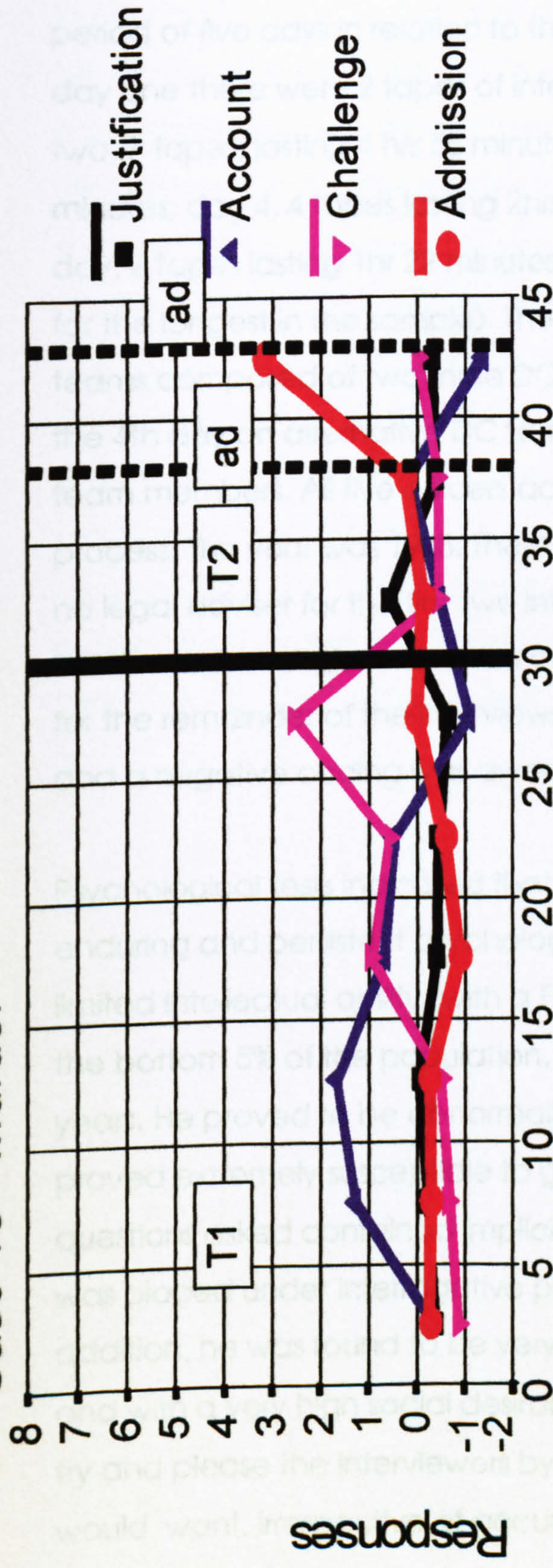
Case 18 - Murder



Minutes. Tapes 1 & 2

The Manipulation and Robust Challenge factors have been removed. From some of the questions asked (Well why is your head hurting you then? Is it the voices?) the officers appear to be aware of the suspect's mental disorder. The tactics graph suggests that at some stage the officer(s) employed all four tactics, to some degree, in the first tape. Questioning Style (leading, closed and multiple questions) was most prominent in the opening ten minutes, after which an increase in Soft Challenge was noted. The suspect spoke in a quiet voice and this was reciprocated by the officers. These Challenges amounted to providing details from the witnesses who had been attacked. As more and more witness evidence unfolds, so the officer(s) tends to maximise the serious nature of the allegations. In the second tape the previously silent officer takes over the questioning and immediately reminds the suspect of his very serious predicament and also of their previous dealings with one another - 'I know an awful lot about you.... This isn't the Juvenile Court anymore...Now you've got a problem.... let me finish, let me say my bit....'. This particular officer has control of the interview, shortly after this admissions are made.

Case 18 - Murder



Minutes. Tapes 1 & 2

There is evidence that this suspect was actively mentally ill at the time of the interview (acutely psychotic and highly deluded) which may undermine the reliability of his responses. This chart indicates that the suspect opens the first interview by providing an Account and then he begins to Challenge the officers towards the end of T1 - Officer, 'A witness to that stabbing..... said.... the person who did it, his bracelet came off and he described it as a big chunky gold bracelet, just like yours.' Suspect 'Lots of people wear gold'). The responses in T2 congregate around the mean until a number of Admissions are made - 'I tapped his window, I thought he would be looking through as he always does with his paranoid self and I blew two shots through his window' and 'So what is he trying to take me for, so I have to put him in his place obviously. Officer 'What did you do?' Suspect 'As you said, what happened to him.' Officer 'You stabbed him up?' Suspect 'Yeah'. Possibly because of this suspect's active mental state, this was the only case where it was not possible to go beyond the admission category and allocate a full confession response.

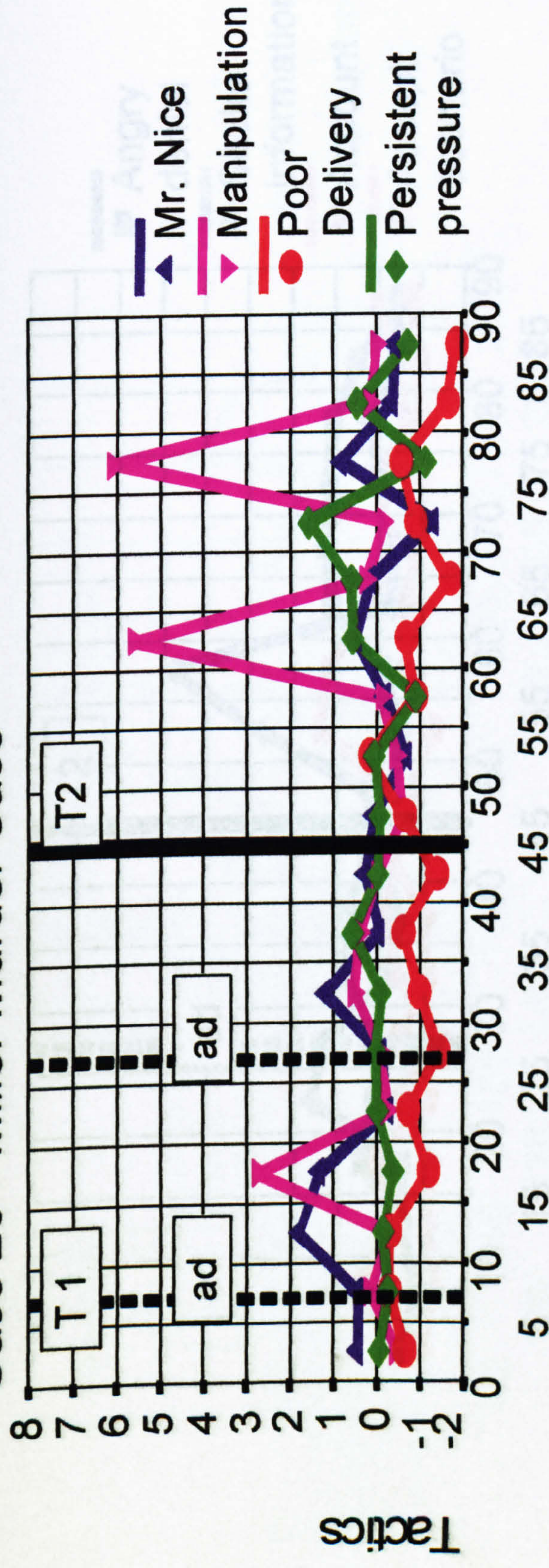
An introduction to the Miller Murder Case

This case concerned a 22 year old suspect who was interviewed over a period of five days in relation to the murder of a female prostitute. On day one there were 2 tapes of interview, lasting 1hr 28 minutes. Day two, 7 tapes, lasting 4 hrs 55 minutes; day three, 4 tapes lasting 2 hrs 25 minutes; day 4, 4 tapes lasting 2hrs 32 minutes and finally, on the 5th day, 2 tapes lasting 1hr 22 minutes. A total of 12 hrs and 42 minutes (by far the longest in the sample). There were two distinct interviewing teams composed of two male DC's in each team. Towards the end of the 4th day an alternative DC temporarily replaced one of the original team members. All five officers actively participated in the interviewing process. The year was 1988. There was no AA present at any time and no legal adviser for the first two interviews. No reminder of legal entitlements was given (breach of the Codes?). A solicitor was present for the remainder of the interviews but was essentially silent throughout and a negative coding was awarded.

Psychological tests indicated that this suspect possessed a number of enduring and persistent psychological vulnerabilities. He was a man of limited Intellectual ability (with a Full Scale I. Q. score of 75). This falls in the bottom 5% of the population, giving a 'mental age' of less than 11 years. He proved to be abnormally suggestible on testing. In fact, he proved extremely susceptible to giving erroneous information, if (a) the questions asked contained implicit or explicit suggestions, and (b) if he was placed under interrogative pressure during interviewing. In addition, he was found to be very prone to anxiety, highly acquiescent and with a very high social desirability factor (i.e., he would be likely to try and please the interviewers by providing answers he thought they would want, irrespective of accuracy).

The presence of two distinct interviewing teams was identified in the Court of Appeal Judgement. Although labelled in this study as Mr. Nasty and Mr. Nice, both teams displayed the ability to cross over and adopt the others' tactics. The 'nasty' team opened the interviewing in a fast and furious manner. Interruptions were commonplace and although an attempt was made at conversation management, it was a token gesture. The 'nice' team were responsible for tapes 3 - 5 and early on it was a 'sea change' in terms of style and approach. It was a calm, confident, assured performance, but one which ultimately degenerated into the pattern of their predecessors. Together the teams resorted to a very judgmental, extremely manipulative and extremely forceful approach. In particular the 'nasty' team provided a very powerful and intimidating interview (T's 6 & 7) which was followed by the 'nice' routine, which secured the crucial admissions. Evaluation. Open - 2: Skilful - 2: Manipulative - 4: Forceful - 4.

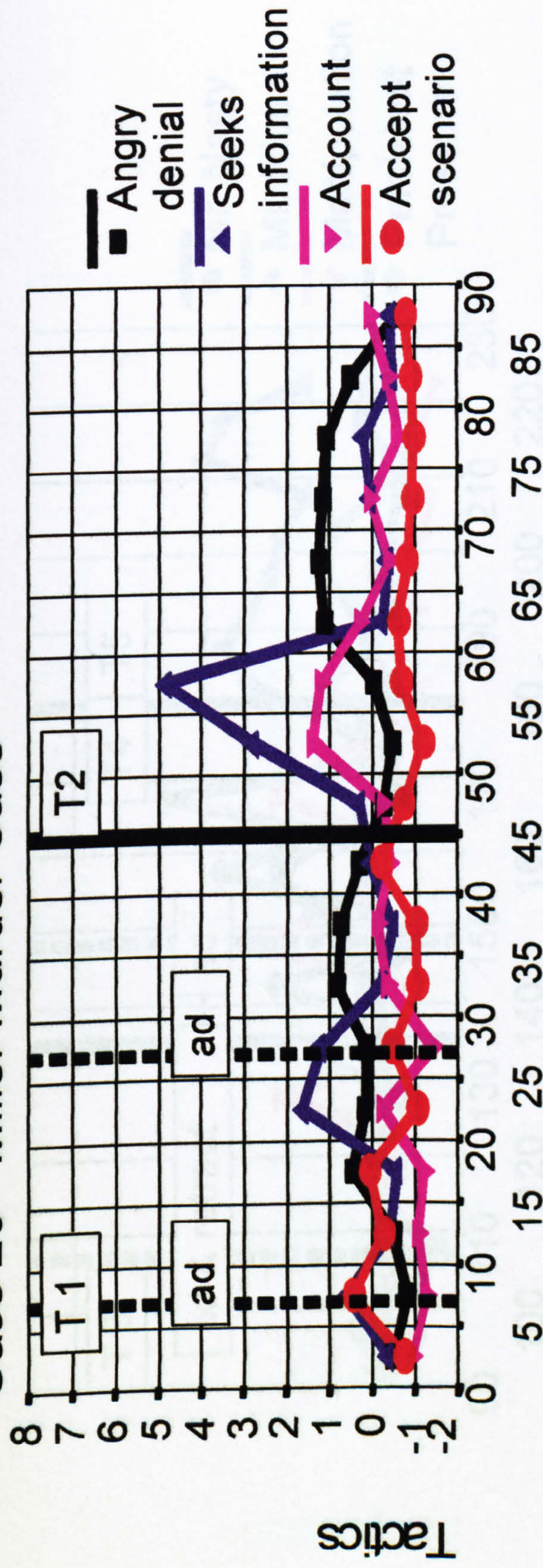
Case 20 - Miller Murder Case



Minutes. Day 1. Tapes 1 & 2

The Mr. Nasty tactic has been removed. The Mr. Nice tactic and Manipulation reach a moderate level in T1, but Manipulation continues to increase and in T2 there are two **Extreme** peaks. These measures give some indication of the pace and intensity of the opening interview session. There is also evidence of a **Moderate** use of the tactic Persistent Pressure in between the Manipulation peaks. The manipulation in T2 took the form of an attack on the suspect's way of living, working as a pimp, living off immoral earnings and feeding a drug habit. This was a theme that both pairs of officers resorted to, during the five days.

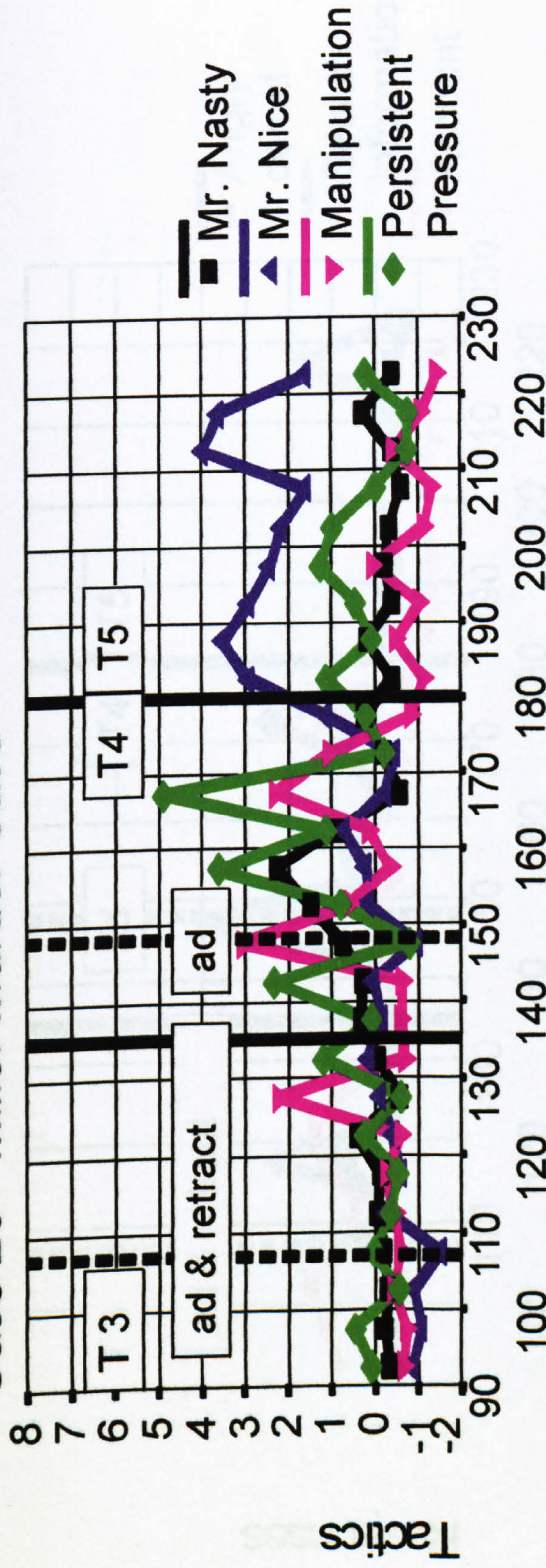
Case 20 - Miller Murder Case



Minutes. Day 1. Tapes 1 & 2

There are two admissions made in the opening tape, which relate to peripheral matters. The first concerns living off immoral earnings (acting as a pimp to the deceased) and the second relates to using drugs. The dominant response would appear to be Seeks information, which reaches a *Moderate* level in T1 and a *Marked* level in T2. Providing an Account and Angry denial are also present (at a *Moderate* level) in T2.

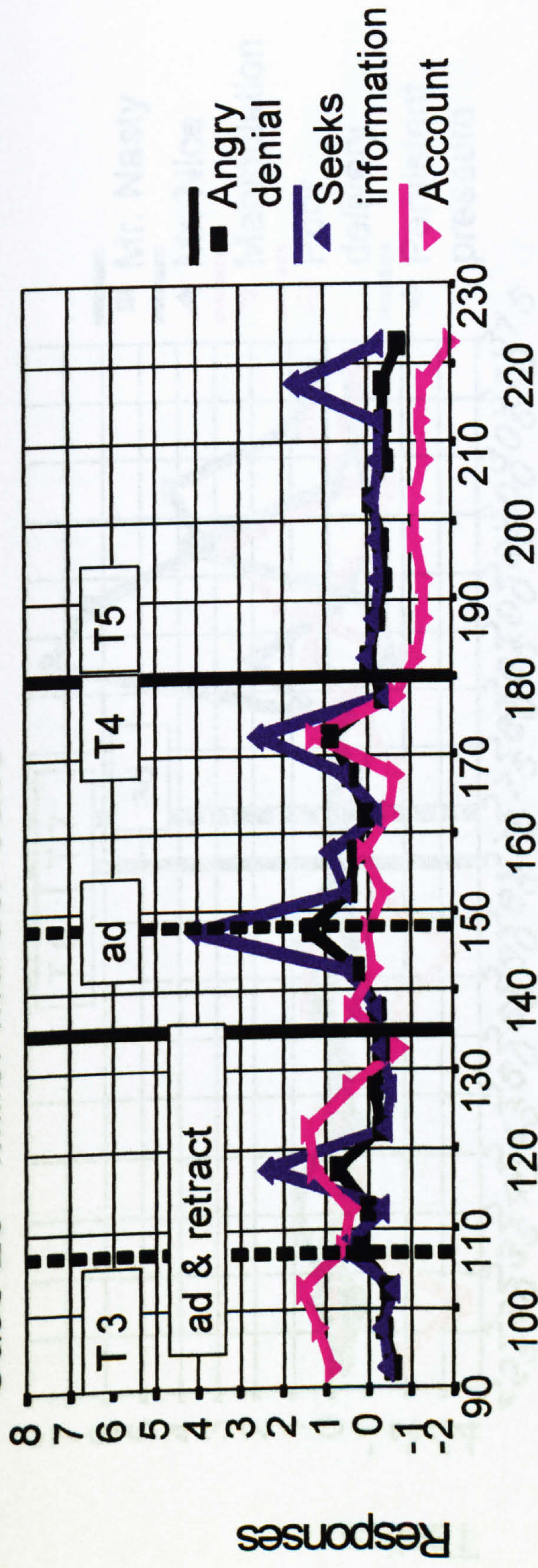
Case 20 - Miller Murder Case



Minutes. Tapes 3 - 5. Day 2, new officers

The tactic Poor Delivery has been removed. In T3 a *Moderate* amount of Manipulation is evident towards the end of the tape. The same tactic is also present at the same level in T4 but by far the most prolific tactic at this stage was Persistent Pressure that climbed to a *Marked* level. The Mr. Nasty tactic also reached a *Moderate* level. In T5 the presence of a Mr. Nice approach dominates the tape and fluctuates between a *Marked* and *Moderate* level throughout the tape. This is a classic Mr. Nice approach. After four rather furious and sometimes heated exchanges, this is delivered in a soft, low tone. There are no raised voices, although it remains very Manipulative. This tape was the work of one officer and the present author has labelled it, 'Murray's Monologue'.

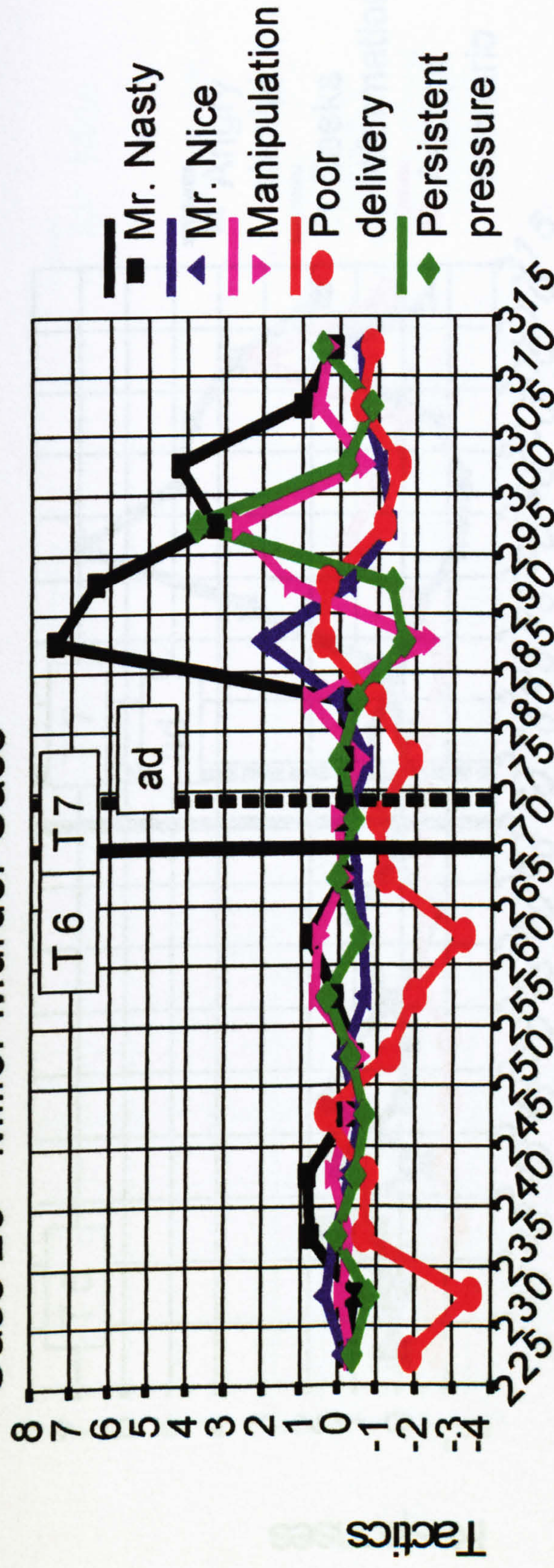
Case 20 - Miller Murder Case



Minutes. Tapes 3 - 5. Day 2, new officers

The response Accept Scenario has been removed. In T3 both Providing an Account and Seeks Information are present at a *Moderate* level. An admission and a retraction are also present. These relate to allegations that the suspect was the deceased's pimp. He was prepared to accept he was living off her money, but he rejected the use of the word pimp, a situation often manipulated by the officers. In T4 a further admission is forthcoming. This relates to only, 'thinking' that the deceased was actually using the address where her body was found, but the suspect refused to accept the idea he had actually been there. The response Seeks Information is present to a *Marked* degree in T4 and relates to where the suspect is attempting to discover who is providing information against him, and exactly what they are saying. In T5 (Murray's Monologue) the time is monopolised by the officer and this is reflected in the response graph, where a *Moderate* level of Seeks Information is detected in the penultimate segment.

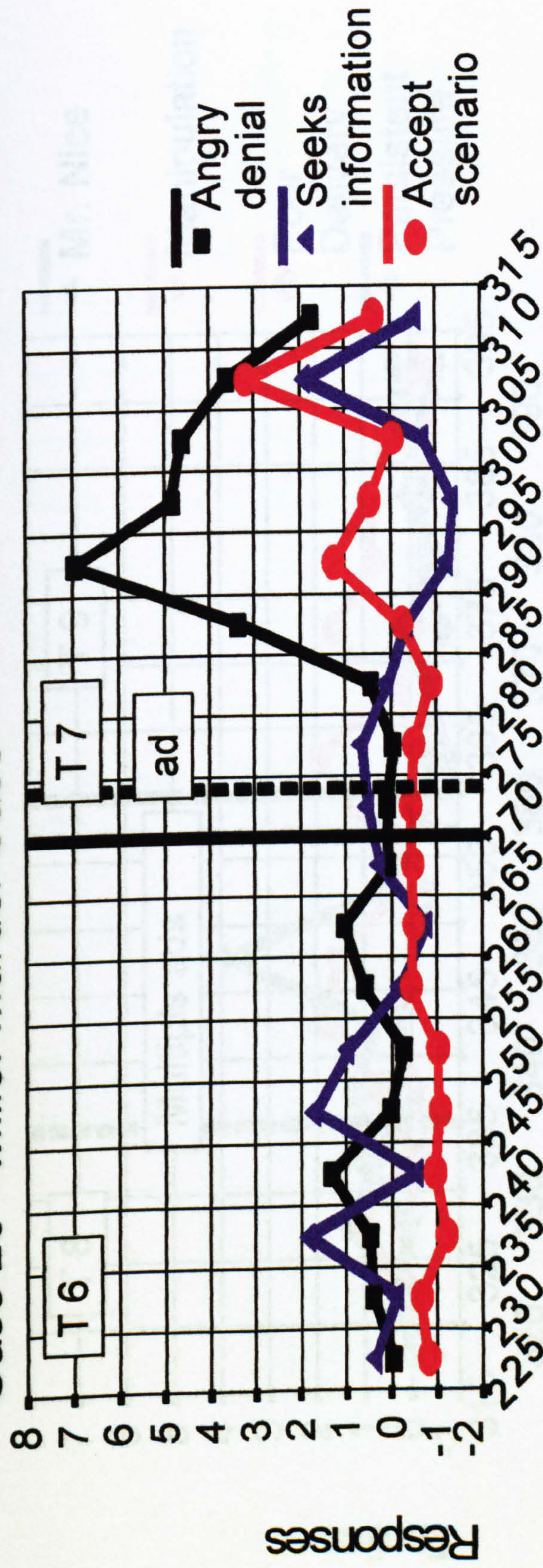
Case 20 - Miller Murder Case



Minutes. Tapes 6 & 7, first pair of officers

No factors have been removed. After the monologue and hushed tones of T5 the tactics in T6 tend to converge around the mean. One reason for this is that the officers are introducing evidence from witnesses, by way of reading directly from statements. This is not an outwardly hostile approach. This changes drastically in T7 where the Mr. Nasty factor reaches an *Extreme* level and Persistent Pressure and Manipulation both reach *Marked* levels. After about 15 minutes this tape becomes nothing more than a shouting match, one long, loud interruption. It follows that it was delivered in a very fast and furious manner, with evidence of naked aggression. As an example the conversation has been getting progressively more intense and the exchanges more heated when an officer says (in a raised voice), '... seeing that girl there in the state she was in, and you supposed to have had all this wonderful care for her. Seeing her damn head hang off and her arms cut and stabbed to death, and you sit there and tell us you nothing at all about it, nothing at all about it.' There then followed a pantomime sequence where the suspect denied being there (at the murder scene) on 18 consecutive occasions.

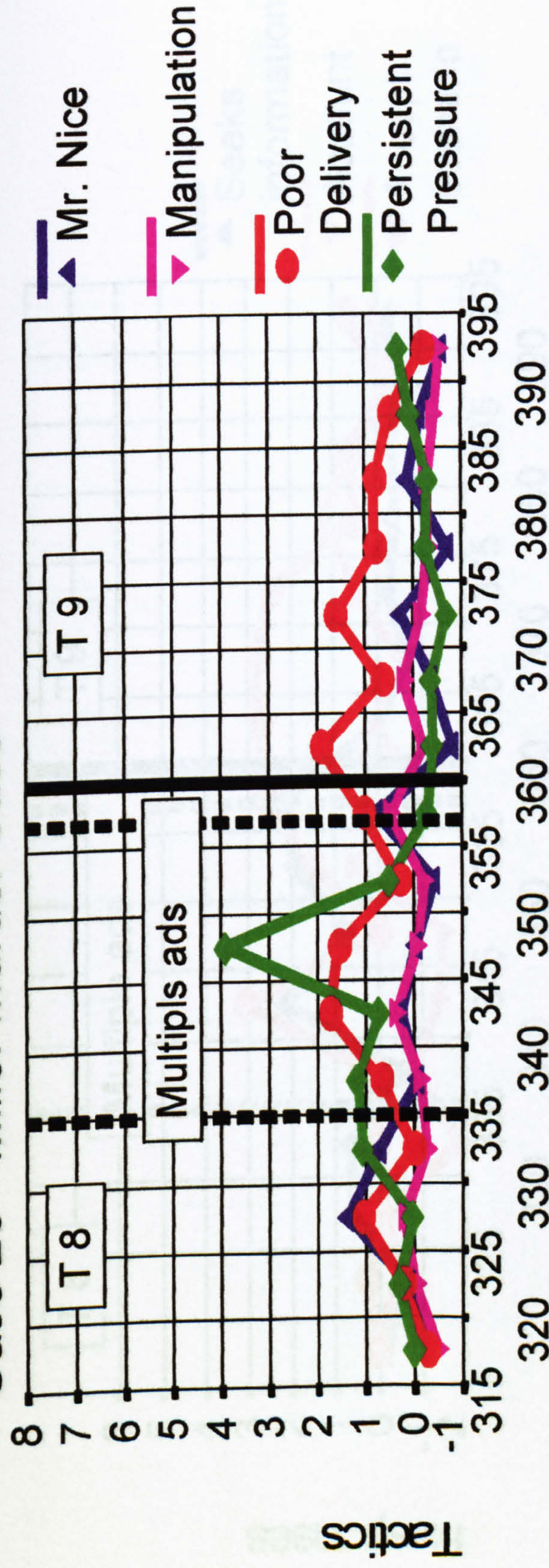
Case 20 - Miller Murder Case



Minutes. Tapes 6 & 7, first pair of officers.

The response Provide Account has been removed. In T6 the responses tend to remain within the average band except for two *Moderate* increases in Seeks Information and one *Moderate* rise for Angry Denial. Essentially, the suspect is responding to details emerging from a witness statement. Early in T7 an admission is made in relation to living off immoral earnings. After the third segment an *Extreme* amount of Angry Denial is present and this clearly mirrors the *Extreme* use of the tactic Mr. Nasty. Such Angry Denial continues at a *Marked* and *Moderate* level until the end of the tape. Also present towards the end are Accept Scenario (*Marked* level) and Seeks Information (*Moderate* level). The response, Accept Scenario, was where the suspect began to accept that he may have taken drugs on the day in question. In his own words, he might have had 'a nice buzz', he was, 'Not quite high, I was buzzing.' As an example of introducing a qualification, the suspect agreed to a reference in a witness statement that he was on coke, but he went further and said, 'coke and weed'.

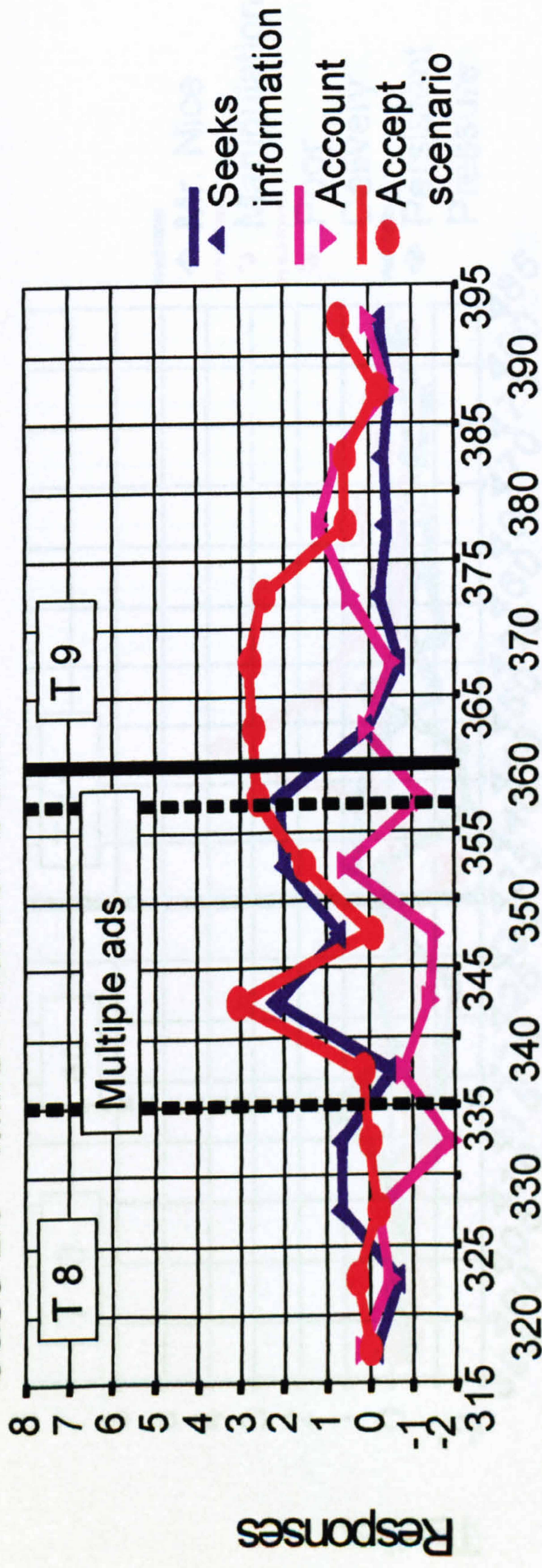
Case 20 - Miller Murder Case



Minutes: Tapes 8 & 9: second pair of officers

After the bruising and bombardment of T7 this is a very different approach, starting some 53 minutes later. Both Mr. Nice and Poor Delivery reach **Moderate** levels in T8, but Persistent Pressure, at a **Marked** level, is the most obvious tactic. This consisted of both officers speaking one after the other, maximising the seriousness of the offence and the use of inducements. From the responses given by the suspect there must be some doubt whether he actually understood the inducements being offered by DC. Murray ('There might be a nice way around this, mightn't there?' and when discussing taking drugs, using up one's last amount all in one go, DC. Murray empathises with the suspect, 'you've had a good... good wack, lovely, I mean I say, I'd do exactly the same thing.'). The point being that high on drugs, high on drink, annoyed at the victim's behaviour the suspect may not even remember what he did. This officer was particularly skilful at getting the suspect to agree with him, had he not been interrupted by the other officer, it seems likely that more damning admissions would have been forthcoming. There was a hypnotic element to this officer's quiet and wily approach.

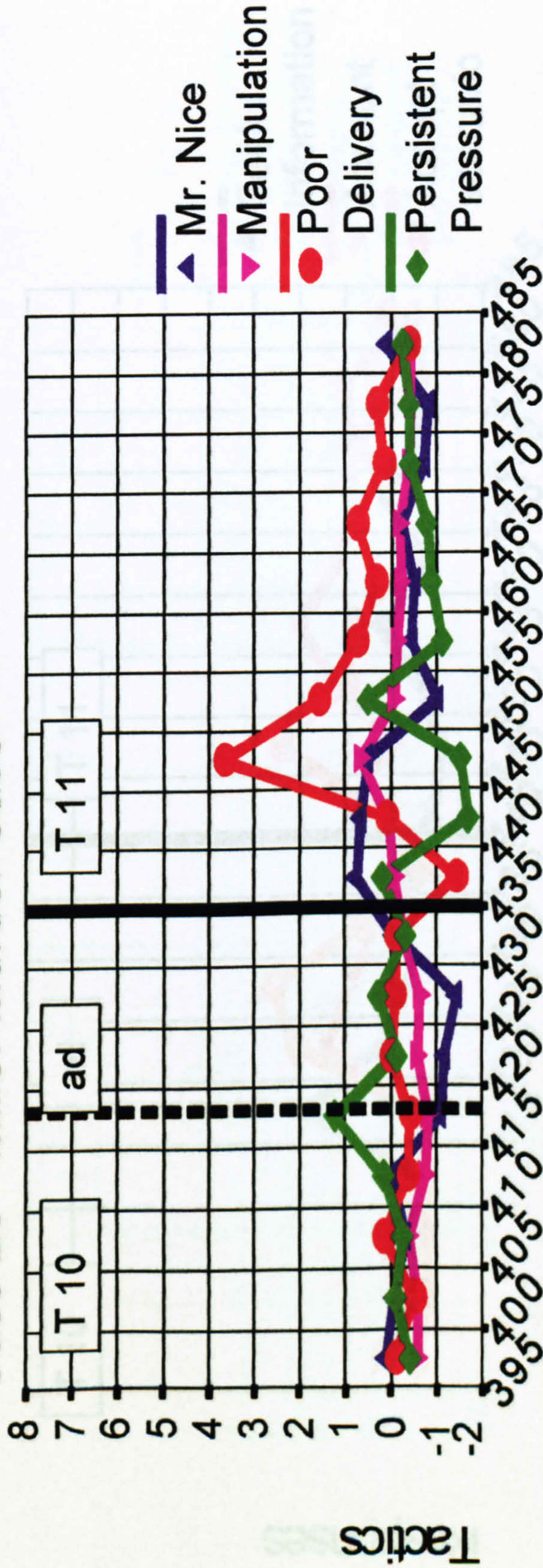
Case 20 - Miller Murder Case



Minutes. Tapes 8 & 9, second pair of officers

The response Angry Denial has been removed. In T8 Accept Scenario and Seeks Information both reach a *Moderate* level and indeed the former manages to maintain this into T9. These *Moderate* levels are to be found within a band of multiple admissions which relate to an acceptance of the theme that the officers have been pursuing for some considerable time, (under the influence of drink, hash and coke), he accepts 'I don't know, it ... it could do, it could have happened like that.' The suspect also continues to express doubts, 'I could have been there, I don't know, but I am sure I'm not.... I wasn't there, but I could have been there.') There was also some evidence of distress ('I've been under pressure right. Ever since she's died, right, I've been home right, I've been crying in my... my sleep, d'you know what I mean?', 'I've been to the doctors... 'cos I had my nervous breakdown. I was shaking you see, my nerves.... they're really bad do you know what I mean?'). These admissions were crucial, he opened the 'chink' - he could have been there. In T9 the suspect is 'led' through a description of the flat, he accepts what he is told ('..which way have you gone then? A - 'I'm not sure if it's straight, or is it the next right, ..', 'So you've gone straight...'). He begins to cry towards the end when the discussion centres on the injuries inflicted.

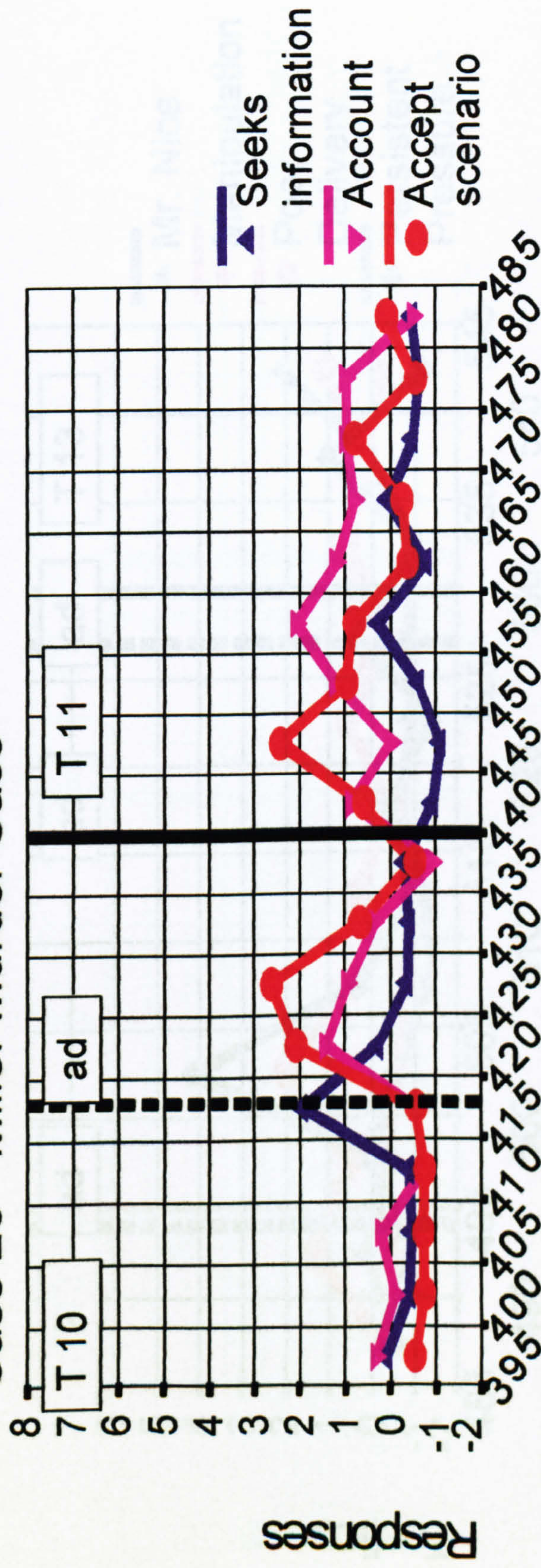
Case 20 - Miller Murder Case



Minutes. Tapes 10 & 11. Day 3, second pair officers

The Mr. Nasty tactic which was removed in T8, does not feature again. This sequence starts off as a consolidating interview. The suspect is asked to go back over all events in greater detail, and is assisted with prompts where necessary. He is not allowed to deviate from the 'agreed' story and a number of forceful leading questions are used to keep the suspect on the right track ('...we're drifting a little now. We're in the Casablanca' A - 'Yeah') . Only Persistent Pressure reaches a *Moderate* level in T10, but Poor Delivery, with long questions and assertions, reaches a *Marked* level in T11. This tape is dominated by DC. Murray, once more, who takes the suspect through a sequence of events at the murder scene including naming all the others present.

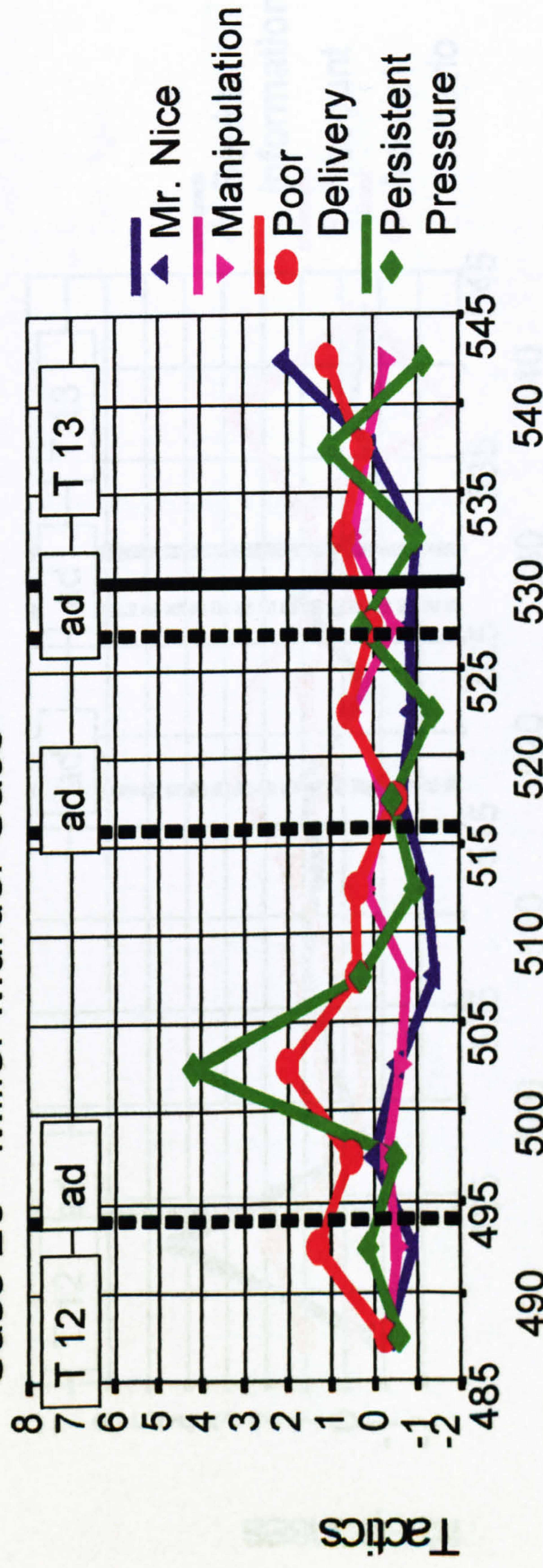
Case 20 - Miller Murder Case



Minutes. Tapes 10 & 11. Day three, second pair officers

The Angry Denial factor which was removed in T8 does not appear again. The graph suggests that the most prominent factor in these two tapes is Accept Scenario, even though it only reaches a *Moderate* level in both tapes, it is an accurate reflection of the process that is taking place. The suspect is agreeing with and is being led by the officers. Other *Moderate* factors include Seeks Information in T10, and Provides Account in tapes 10 and 11. Perhaps the main features of the responses in this period are the general vagueness attached to them ('Was that in the bar or the lounge?', A - 'Sometimes I go in the lounge, ..'. 'Too crowded is it?' A - 'It's just so full you know..'). In terms of providing an Account, the responses are not only vague but also vary a great deal. Initially he walks to the murder scene alone, with 'voices' behind him and then he is the last in the group, everyone is in front of him. At the flat '... it was dark but I know that there's 2 people, and there was 1 short and 1 tall. I know that for a fact.' Q 'And you're sure 1 was Dullah and 1 was Tony Parris?' A - 'Well I'm not sure but I know..'. Q 'No, no, no, no.... you know that 1 of them was Tony Parris?' A - 'Yeah.', Q 'And the other 1 was Dullah, is that right?' A - 'Well yeah, could say so, yeah, yeah').

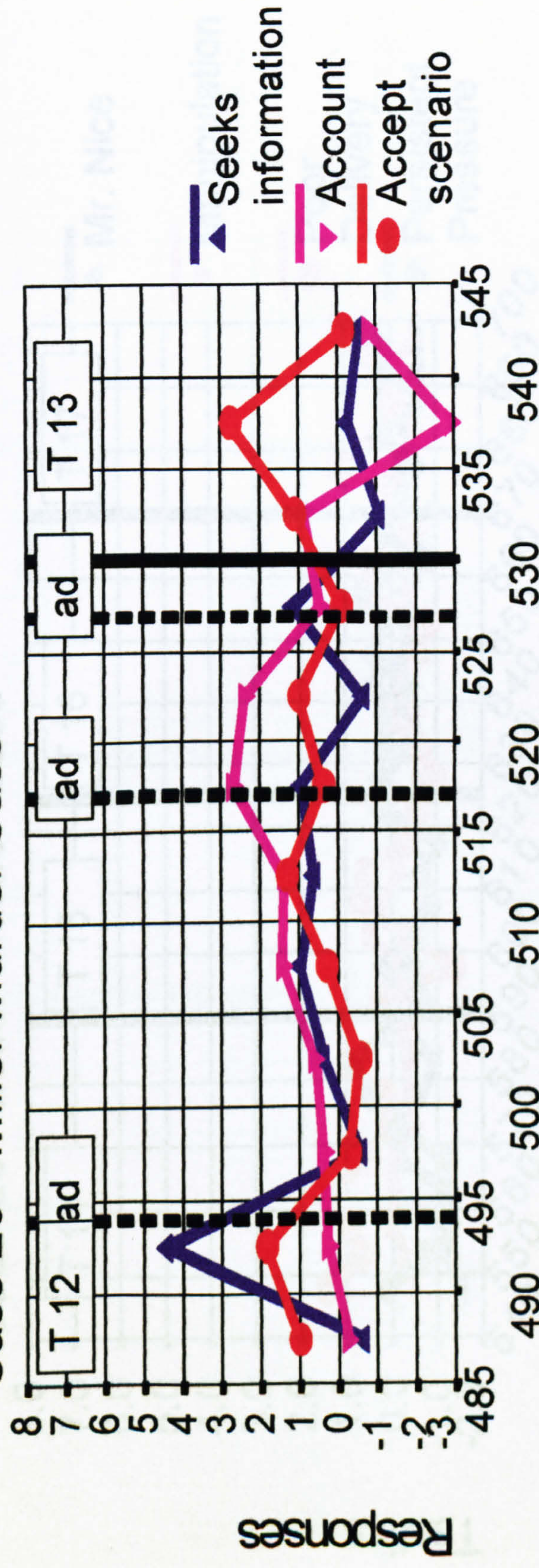
Case 20 - Miller Murder Case



Minutes. Tapes 12 & 13, day 3. Second pair of officers

Persistent Pressure reaches a **Marked** level in T12 and Poor Delivery a **Moderate** level at the same time. At the end of T13 there is some evidence of the Mr. Nice factor going beyond the **Average** band. Essentially this was an interview for the suspect to tell the whole truth as 'there are parts which just don't ring right,...'. The suspect is taken through his story again and is told '.. you are looking at a life sentence if this goes wrong.' Later he is asked 'Who did the business?' and maintains that he did not go with the others (another reversal). This prompts the following, 'This had better be the truth... Do you know how serious this is?... Do you know what a life sentence means?... Murder?... You had better start thinking of yourself... We've had 12 tapes now, and most of it has been driven.... You haven't told exactly what's happened, and we want that...you know how serious this offence is and you know the consequences if you don't. Come on let's have it....'

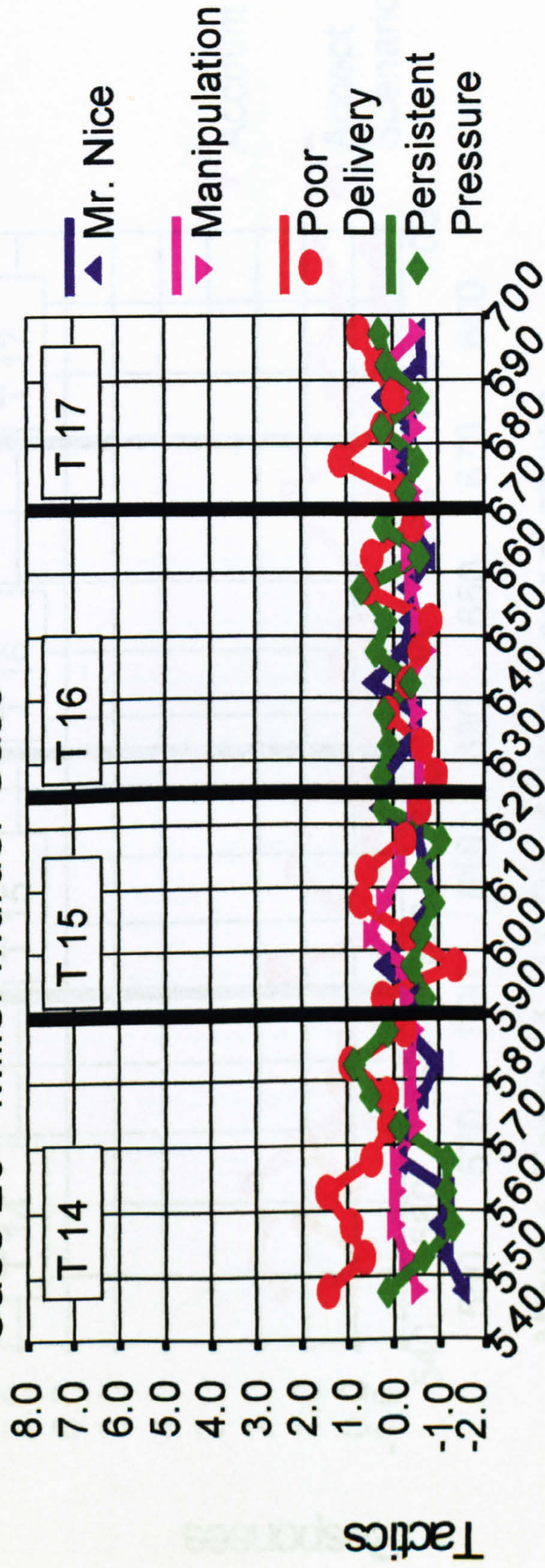
Case 20 - Miller Murder Case



Minutes. Tapes 12 & 13, day 3. Second pair of officers

There is a **Marked** level of the response factor Seeks Information, evident at the beginning of T12 and both Providing an Account and Accepting a Scenario reach a **Moderate** level during the same tape. In T13 only Accepting a Scenario reaches a **Moderate** level. There are a number of admissions in this sequence which relate to the suspect admitting to being present in the flat when the offence took place. This changes over a period of time from being in another room (and hearing screams), to being by the door and eventually to being in the room, although not to inflicting any stab wounds. Some of the responses are still vague and inconsistent with other, earlier versions and at times the suspect appears to be saying 'yes' to everything ('Are you sure?', A - 'Yeah...'; Q 'Was she lying on the floor?', A - 'Yeah...'; Q 'She was lying on the floor?' A - 'Yeah...'; Q 'What was he doing? Was he kneeling over her?' A - 'Yeah.' Q 'Was he standing over her?' A - 'Standing over her.' Q 'Standing over her?' A - 'Yeah.')

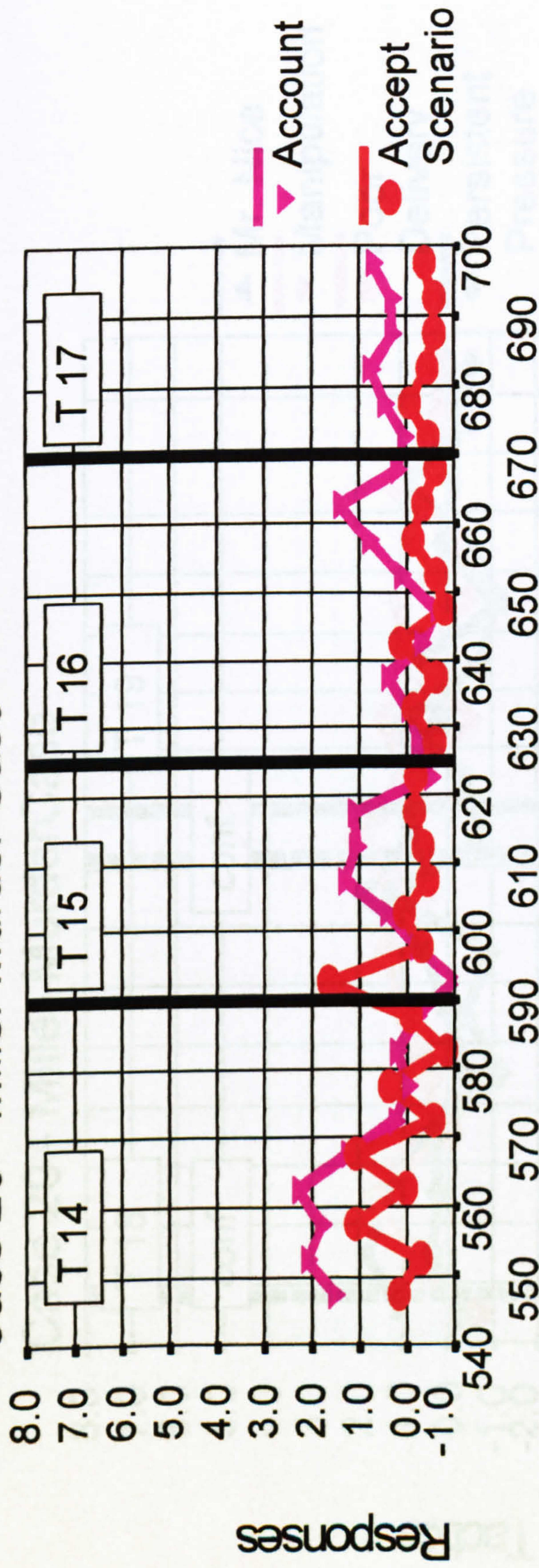
Case 20 - Miller Murder Case



Minutes. Tapes 14 - 17. Day 4, second pair officers

Four tapes have been presented in the one chart as the level of activity rarely reaches beyond the *Average* band. For tapes 16 and 17 DC. Murray is joined by a new DC but this addition does not appear to have had a major influence in terms of the tactics employed. The most obvious tactics employed appear to be the use of closed and leading questions and echoes. The officers are taking the suspect back over exactly what happened in the flat, and no new ground appears to be covered. The question of injuries to the deceased's wrists was brought up by the officers in T14 (twice, and again in T17) 'Did you see Parris hacking at her wrists?' A - 'Yeah...'; Q - 'You... indicated the palm, the wrist.' A - 'The wrists.' Q - 'Is that right?' A - 'Yeah.'; Q - '.... did he make a deliberate attempt to cut her wrists?' A - 'I think so, yeah...'; Q - 'Are you sure?' A - 'I would say so yeah.' Q - 'Was this.... when she'd given up struggling?' A - 'Yeah'; Q - 'Did you see him try and cut her wrists?' A - 'I couldn't really say, he was just slashing, do you know what I mean.' Q - 'He was slashing at her wrists?' A - 'Slashing.... he was just slashing.' At the end of T15 the officers go through the formalities of closing the interview, '...are you happy the way we have conducted the interviews?' Suspect replies, 'Yeah, very, very.'; Solicitor replies 'Yes'. Tape 16 commences 7 hours and 25 minutes later, at 21.53 hrs.

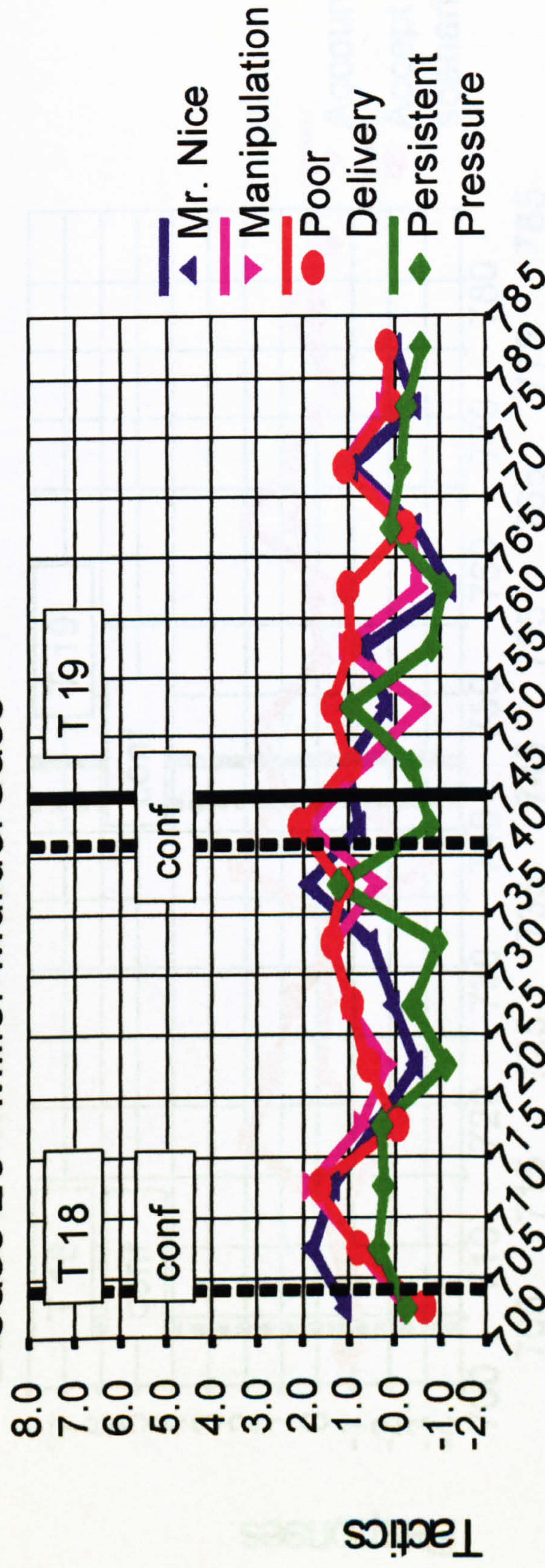
Case 20 - Miller Murder Case



Minutes. Tapes 14 - 17. Day 4, second pair of officers

Seeks Information has been removed from this chart. Providing an Account reaches a *Moderate* level in Tapes 14, 15 and 16, and Accept Scenario reaches the same level in the first two tapes. These findings tend to reflect the tactics chart for these 4 tapes. Essentially the suspect is providing an account of what took place at the murder scene and is being asked to provide (or is led) for some of his responses. These interviews only served to confirm the suspect's vulnerable state and how easily led he was. For at least the third time an attempt is made to determine whether the wrists of the victim were mutilated. The following sequence takes place in T17 (after the sequence noted in the tactics graph above), Q - 'Now at what part of the body is he slashing..? A - 'I think, I am not sure... he was slashing the hands.' Q - 'So, so you are indicating,... he is slashing at the arms?' - A 'As far as I could recollect...' Q - 'And your indication to me is ... that he is slashing at the wrists?' A - 'Yeah'. As in many other examples the suspect responds according to the leading nature of the questioning.

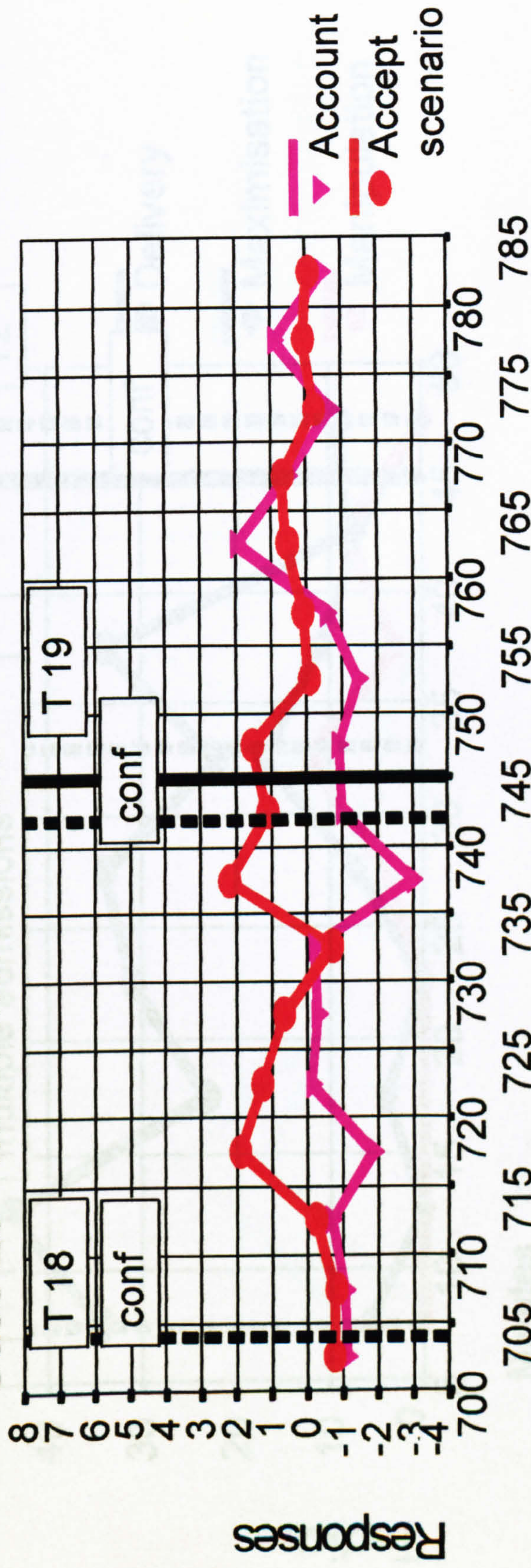
Case 20 - Miller MurderCase



Minutes. Day 5, tapes 18 & 19. Second pair of officers

Mr. Nice, Manipulation and Poor Delivery all reach a *Moderate* level early on in T18 and they are joined by Persistent Pressure just before the end of the tape. In T19, Poor Delivery reaches a *Moderate* level for a brief period early on and towards the end a marginal increase can be detected in Mr. Nice, Manipulation and again Poor Delivery. Overnight the officers have been provided with new evidence about what took place at the murder scene (apparently a pact of silence was made and all those present took some part in mutilating the body) and DC Murray admits '.... up until today, we have been, you could say flying by the seat of our pants, ..' this is followed by the realisation (and threat) that '...you are not sitting pretty anymore, you are now not looking at possibly ... lesser sentences or lesser charges.... what you are looking at, it is the big one... we are in a position of power now...' Some manipulation of detail also takes place, Q - 'Who had this knife?', A - ... it must have been all of them I don't know.', this is rephrased and becomes, 'You've just said to me it must have been all of them that used the knife.' Also, 'When Tony Parris had the knife, did he hand it to somebody and say something?', A - 'Not as far as I know.'. This is interpreted as 'And you were there when somebody said, although you are not sure who, we will all stab her, and we will all be equally responsible.' A - 'Yeah'.

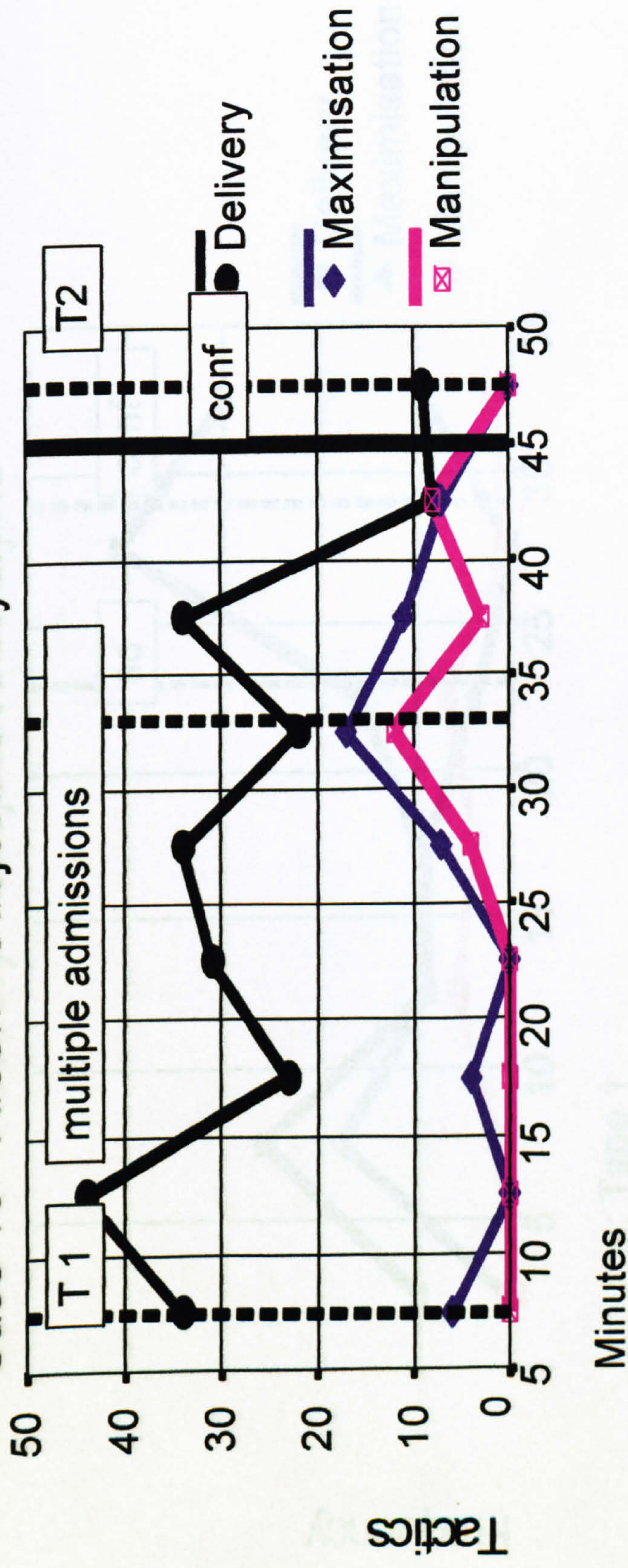
Case 20 - Miller Murder Case



Minutes. Day 5, tapes 18 & 19. Second pair of officers

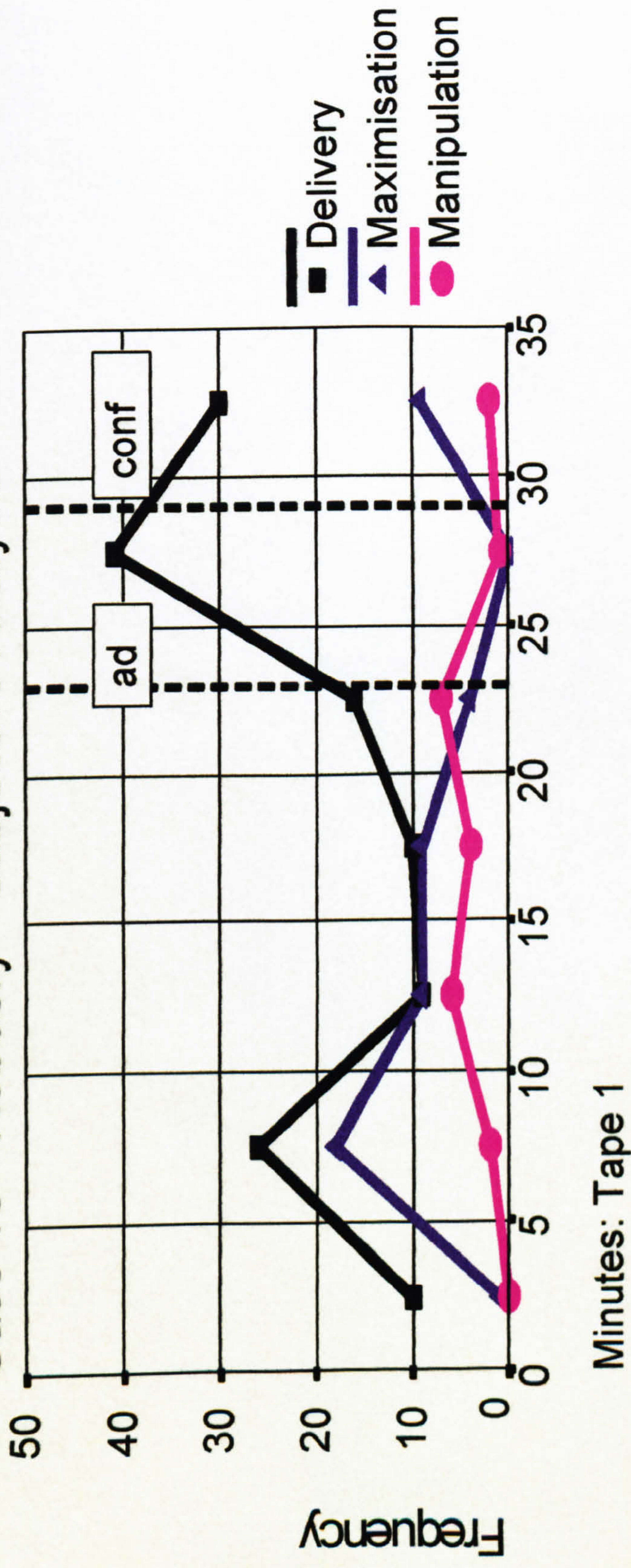
Both Angry Denial and Seeks Information have been removed. The response Accept Scenario reaches a *Moderate* level in both tapes and Providing an Account reaches this level on one occasion, in T19. There are two confessions in T18. Interestingly, the first one is not picked up by the officers. It comes at the end of a long narrative from the suspect '... so I started stabbing, do you know what I mean.' It is possible he did not mean to say 'stabbing', perhaps it should have been 'running', regardless the officers continue to introduce their 'new evidence' (see tactics above) and it is only after a period of prolonged manipulation and pressure that he confesses 'Are you saying to me that you could have been in fear?', A - 'Yeah', Q - 'And done it because of that?', A - 'Yeah most probably, I don't know, I just don't know.' Early in T19 the suspect actually says 'No' to some of the officer's suggestions (possible boomerang effect) and later refuses to accept that he was blocked up (drugged) which he had always gone along with before. Also in this tape the suspect again makes a reference to stabbing the victim which is not picked up by the officers at the time.

Case 10 - Arson - Subjective Analysis



This subjective chart is dominated by the Delivery factor. It is noticeable that as this declines in the fifth segment there is an increase in Maximisation and Manipulation, although this takes place towards the end of a period of multiple admissions. It is not clear which factors contribute to the confession.

Case 15 - Robbery - Subjective Analysis



Delivery again dominates this type of subjective analysis. In the opening ten minutes there is evidence of the use of both Delivery and Maximisation. Manipulation does not appear to feature a great deal in this graph. This is in contrast to the statistical analysis where this factor, and Intimidation, lead to the first admission, and finally a confession.